Y4. P96/11:99-47

AVIATION SAFETY ISSUES

(Airspace Congestion in Northern New Jersey and the Responsibilities of Federal, State, and Local Governments To Ensure That Safety Is Considered in Regulating the Use of Land Near Airports)

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HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

SECOND SESSION

ORIGINAL

MARCH 2, 1986

Printed for the use of the Committee on Public Works and Transportation

U.S. GOVERNMENT PRINTING OFFICE
61-414 O WASHINGTON : 1986

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CONTENTS

TESTIMONY

	Page
Bell, Robert S., National Air Traffic Controllers Association, MEBA/AFL-CIO, accompanied by Joel Hicks, air traffic controller, New York TRACON/Newark sector; and Michael Sheedy, air traffic controller, New York TRACON/Newark sector	93
Bonaventura, Vincent, general manager, New Jersey airports, Port Authority of New York and New Jersey, accompanied by Philip Engle, Pan American World Airways, and manager, Teterboro Airport	139
Calabrese, Hon. Gerald, mayor of Cliffside Park, NJ	119
Cohn, Robert E., general counsel, People Express Airlines, accompanied by Gary Church, technical consultant to People Express	129
Cooke, Robert A., vice president, operations, National Business Aircraft Association, Inc	167
Crawford, James A., assistant commissioner, New Jersey Department of Transportation	139
Del Balzo, Joseph, director, eastern region, Federal Aviation Administration, accompanied by Joel Papush, air traffic staff, New York TRACON, Federal Aviation Administration; Jim Haight, Manager, Flight Standards Division, Federal Aviation Administration; and Bill Handel	57
Goldfarb, Toni, citizen member, Township of Teaneck Special Force on Airplane Noise and Safety, on behalf of Hon. Bernard Brooks, mayor of Teaneck, NJ	119
Lautenberg, Hon. Frank R., a U.S. Senator from the State of New Jersey	6
McHugh, Peter C., vice president, aviation policy, Aircraft Owners and Pilots Association	167
McLure, Herbert R., Associate Director, Resources, Community and Economic Development, General Accounting Office, accompanied by Charles S. Cotton, Group Director; Joseph M. McGrail, Evaluator-in-Charge; and Tom Hubbs	19
Presto, Hon. Dominic, mayor of Carlstadt, NJ	119
Roukema, Hon. Marge, a Representative in Congress from the State of New Jersey	6
Torricelli, Hon. Robert G., a Representative in Congress from the State of New Jersey	5
Wilson, Hon. Susanne, chairwoman, Santa Clara County Board of Supervisors, California	110

SUBMISSIONS FOR THE RECORD

Bonaventura, Vincent, general manager, New Jersey airports, Port Authority of New York and New Jersey, statement	149
Cohn, Robert E., general counsel, People Express Airlines, statement	136
Cooke, Robert A., vice president, operations, National Business Aircraft Association, Inc.:	
Statement	193
Letter responding to additional questions	178
Crawford, James A., assistant commissioner, New Jersey Department of Transportation:	
Statement	150
Letter supplementing testimony	144
Regulations. Aeronautics—Air Safety and Hazardous Zoning, from the New Jersey Register, April 15, 1985	152

BEST COPY AVAILABLE

Page

Del Balzo, Joseph, director, eastern region, Federal Aviation Administration, statement 90
Engen, Philip W., Pan Am World Services, Inc., letter supplementing testimony 147
Hammerschmidt, Hon. John Paul, a Representative in Congress from the State of Arkansas, statement 4
McLure, Herbert R., Associate Director, Resources, Community, and Economic Development Division, U.S. General Accounting Office, statement 37
McHugh, Peter C., vice president, aviation policy, Aircraft Owners and Pilots Association:
Statement 189
Letter responding to additional questions 171
National Air Traffic Controllers Association, MEBA/AFL–CIO, list of air traffic controllers in support of NATCA's testimony 109

ADDITIONS TO THE RECORD

Air Line Pilots Association, statement 197
Air Transport Association, statement 212
Engen, Hon. Donald D., Administrator, Federal Aviation Administration, responses to followup questions to AOPA's testimony and answers concerning airspace congestion in northern New Jersey 220

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AVIATION SAFETY ISSUES

(AIRSPACE CONGESTION IN NORTHERN NEW JERSEY AND THE RESPONSIBILITIES OF FEDERAL, STATE, AND LOCAL GOVERNMENTS TO ENSURE THAT SAFETY IS CONSIDERED IN REGULATING THE USE OF LAND NEAR AIRPORTS)

MONDAY, MARCH 3, 1986

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AVIATION,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Cliffside Park, NJ.

The subcommittee met pursuant to call at 10 a.m., at Cliffside Park Borough Hall, Borough Council Chambers, 525 Park Avenue, Cliffside Park, NJ.

Representative Norman Mineta, presiding.

Present: Representatives Mineta, Hammerschmidt, Roe, Torricelli, Roukema.

Mr. MINETA. The Subcommittee on Aviation of the House Public Works and Transportation Committee will please come to order.

We are pleased today to be here in the district of Congressman Bob Torricelli, and to have with us Congressman Bob Roe from the adjoining district, who also is a very respected and strong member of our House Public Works and Transportation Committee. And we will shortly be joined by Congresswoman Marge Roukema. who is just to the north of this district.

The hearing we are holding today was scheduled as a result of a mid-air collision over Cliffside Park last November. Since that accident, the National Transportation Safety Board, known as the NTSB, has been working to determine the probable cause of the accident. Just last week the NTSB held hearings in this area.

At today's hearing we will not be trying to duplicate the work of the NTSB. Rather, we will use this opportunity to consider broader issues of whether the standards and procedures for controlling air traffic over northern New Jersey are adequate to insure the safety of the persons in the air as well as on the ground.

In designing a system to control air traffic in this region, FAA faces many difficult problems. The airspace over northern New Jersey is used not only by aircraft destined for three of the largest air carrier airports in the country, Kennedy, La Guardia, and Newark, but also by corporate and private aircraft using six gener-

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al aviation airports including Teterboro Airport, one of the busiest general aviation airports in the Nation.

Northern New Jersey requires control procedures which will permit safe operations by a mix of aircraft of all sizes operating at widely varying speeds. Some of these aircraft operate under instrument flight rule [IFR] procedures, and fly according to directions given by air traffic controllers. To further complicate the problem, other aircraft operate on their own, without controller direction, under visual flight rule [VFR] procedures.

The problems of air traffic over northern New Jersey can serve as a case study for the rest of the country. Like many areas, New Jersey has experienced a substantial increase in air service since the Airline Deregulation Act of 1978. Before deregulation, airlines wishing to begin service were required to make an economic case to the Civil Aeronautics Board. The CAB was generally not responsive to these presentations and for almost 40 years, CAB denied all applications by prospective line trunk carriers. All this changed in 1978; and since then, existing and new airlines have taken full advantage of the new market freedoms.

New Jersey's experience illustrates the benefits of deregulation. Since the 1978 act, service at Newark has increased dramatically as a result of major new service by People Express and other airlines. Between 1981 and 1985, the number of annual operations handled by the Newark tower almost doubled from approximately 250,000 to 450,000. In addition, economic development in the region has supported the growth of general aviation for business as well as recreational purposes.

The consumer benefits from deregulation have been nationwide. A recent study by the General Accounting Office concluded that since deregulation—and I quote:

> Fare increases were lower on the average, than what might have been expected under continued regulation; the number of flights and available seats increased; airlines have been more responsive to consumer preferences through a wider range of price/service options; and operating efficiency has increased.

We on the Subcommittee on Aviation are proud to have helped to pass the Airline Deregulation Act which made these consumer benefits possible.

In recent months there has been concern over aviation safety. I feel very strongly that economic deregulation is fully compatible with the highest degree of safety. In 1978, we only deregulated the airlines' decisions on routes and fares. We did not deregulate safety. We expected then, and we continue to expect today, that the FAA will adopt all necessary safety regulations and that the FAA will take all necessary inspection and enforcement actions to ensure that its regulations are obeyed.

A related safety responsibility of FAA is to develop and operate an air traffic control system which can safely handle the increased traffic of the deregulated environment.

One question we want to explore at today's hearing is whether the FAA has adequately staffed the air traffic system for northern New Jersey. The responsibility for controlling traffic over northern New Jersey is shared by a number of FAA facilities, depending on the altitude of the aircraft and the area where it is flying. The towers at Newark and Teterboro are responsible for traffic in the

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immediate vicinity of their airport. At higher altitudes and greater distances from the airport, traffic is handled by the enroute center located at Islip Airport and the terminal radar control areas located in Westbury, Long Island.

These facilities have a much greater workload now than they did before the airline controller's strike in 1981. Yet the facilities are handling this increased traffic with fewer controllers than they had before the strike. A study by the General Accounting Office indicates that at the major facilities in the New York/New Jersey area traffic has increased by 18 percent since 1981, while the controller work force has decreased by 40 percent. In addition, today's controller work force has less flexibility than the prestrike work force since today there are relatively fewer controllers who are qualified to operate all positions in a facility.

The GAO study also indicates that a large number of controllers and supervisors will soon be eligible for retirement, and that there is substantial controller dissatisfaction over working conditions, including controllers having to handle more traffic than they are comfortable with, and controllers being asked to work excessive overtime. These are serious problems, not only for northern New Jersey, but for the entire Nation. And I am deeply concerned that the FAA is stretching its controller work force too thin and perhaps recreating some of the same conditions that led to the 1981 strike.

There are a number of other important safety issues which we will discuss at today's hearings. These include the adequacy of the equipment used by the controllers, the adequacy of the restrictions imposed on aircraft operating in congested areas, whether there are plans to expand airports in the area and how these plans will affect safety, and whether the Federal and local governments have adequate authority to ensure that no safety problems are created by the use of land near airports.

Before concluding, I would like to express our appreciation to our New Jersey colleagues who are attending this hearing: Congressman Roe, from the Committee on Public Works and Transportation; Congressman Torricelli and Congresswoman Roukema.

These dedicated Representatives have had a long-standing concern with aviation congestion and safety, particularly as it affects New Jersey. We greatly appreciate their interest and participation in these hearings.

At this time, I am pleased to recognize the very distinguished ranking minority member of the Aviation Subcommittee, Congressman John Paul Hammerschmidt, of Arkansas, for any opening remarks that he may care to make.

Mr. HAMMERSCHMILT. Thank you very much, Mr. Chairman.

It is a pleasure to be here in New Jersey today. And I would like to join with you in thanking the people of Cliffside Park for their hospitality and for letting us use these very fine facilities for this hearing.

I am certainly delighted to be with a very senior member of our Public Works and Transportation Committee, Bob Roe, our old friend. And certainly it is great to be in the district of Bob Torricelli, our friend and colleague, and Marge Roukema, whose district is very close by.

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Mr. Chairman, you made a very comprehensive statement, and it outlined the parameters and the reason for our being here. So, I will just ask unanimous consent to put my opening statement in the record and save time for the very important witnesses that we have yet to come before us.

Mr. MINETA. Without objection, it is so ordered.

[Mr. Hammerschmidt's prepared statement follows:]

STATEMENT OF HON. JOHN PAUL HAMMERSCHMIDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. Chairman: It's a pleasure to be here in New Jersey today. I'd like to thank the people of Cliffside Park for their hospitality and for letting us use their council chambers for this hearing.

It is unfortunate that the event that prompts our presence here today is the mid-air collision of two private planes near Teterboro Airport. These sorts of collisions are rare, much rarer than collisions involving automobiles here on the ground. But when they do occur, their consequences are always tragic for those in the aircraft involved and sometimes for the people on the ground beneath them as well. These sorts of tragedies also give rise to new fears about flying among the traveling public and among those who live near our Nation's commercial and general aviation airports.

Of course, the focus of this hearing should not be on the details of the specific mid-air collision near Teterboro. Those details, I'm sure, were fully examined by the National Transportation Safety Board [NTSB] during their recent hearings here.

Rather, we should view this one accident as a warning that there may be problems in the airspace over New York and northern New Jersey. Many people have warned that air traffic in the New York/New Jersey area is reaching the saturation point. Some say it's already there.

The central issues in this hearing, therefore, are the extent to which airspace congestion in this area is creating safety problems and what the Government should do about it. The issue is complicated by the controversy surrounding the firing of the striking air traffic controllers in 1981. Many have seized upon any indication of safety problems to try to convince the President to rehire the former controllers. There is a danger, however, in exaggerating safety concerns in order to try to solve labor problems.

This airspace congestion issue also opens up again the ongoing dispute between general aviation and the commercial air carriers. Some airlines have argued that the congestion could be reduced if private planes were more severely restricted around major airports. But others, of course, disagree and argue that general aviation is not the problem.

Hopefully, there are ways to address the problems that do exist here without getting into these thorny issues. It is unlikely that Teterboro or other general aviation fields would be seriously restricted in the near future. But perhaps there are changes that could be made in air traffic control procedures or technological improvements that could be made, such as better radars in the Teterboro tower, that could help increase the margin of safety in this area.

Therefore, I look forward to the testimony of the witnesses here today on these problems and thank them for the time they have taken in preparation.

Mr. MINETA. Mr. Roe, do you wish to make an opening statement?

Mr. ROE. I have nothing formal, Mr. Chairman.

I want to thank you for bringing the committee to New Jersey, to Cliffside Park and to thank Mr. Torricelli and Congresswoman Roukema. And welcome also John Paul Hammerschmidt from Arkansas.

I do want to say from our point of view, the concern we have I think you summed up well in your opening statement when you referred to the safety issues and the situation that exists with the limitation on the number of controllers that have been retained in our area.

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You refer to northern New Jersey, but the interrelationship, as people know, the metropolitan area covers, of course, the city of New York and northern New Jersey, which is one of the heaviest traveled corridors in the world. And I do think that it is important that we get to the bottom of the issue, particularly from the safety point of view.

In other words, with the constant increase of the number of aircraft coming to and fro from the metropolitan area, a highly congested relatively small geographical area and geographic location of the three major airports, we could be in very serious trouble. And I think it is something that we have to pursue and alert the American people to.

I want to thank you and all the colleagues that are participating this morning.

Mr. MINETA. Mr. Torricelli.

TESTIMONY OF CONGRESSMAN ROBERT TORRICELLI

Mr. TORRICELLI. Thank you, Mr. Chairman. And let me thank you as well for coming to New Jersey to hear the very real concerns that we have for safety and in our region. And for Mr. Hammerschmidt, as well, for taking his time, and of course, my colleagues from our State for joining us.

Mr. Chairman, on November 3, 1985, two private aircraft collided and crashed in the neighborhoods of Cliffside Park and Fairview. Six people lost their lives, and several more were seriously injured. It was simply a matter of luck that residents were not at home and that some were able to flee to safety. Simply a miracle that more were not killed.

This disaster is an unfortunate reminder of a simple truth. There is not enough space in our skies. The people in New Jersey and New York are threatened by the continuing growth of air traffic in the most congested corridor in the Nation. This year a record 30 million travelers are expected to pass through Newark Airport, up from last year's 25 million passenger total.

Newark Airport has overtaken both La Guardia and Kennedy in the volume of take offs and landings. And Teterboro Airport, formerly our little county facility, is close behind Newark with a quarter of a million flights annually. Where Teterboro was once a local airport used by light aircraft for pleasure flights, it is now a major hub for business jets and express courier services.

While air traffic increases, quality of life on the ground is clearly decreasing. We all recognize the vital importance of the aircraft industry and of air travel to the economy in our region. It is indeed a $20 billion industry in our region, employing one-half million people. What we invest in the aircraft industry, we have created the service to make life better not to compromise the quality of life. And that is the reality of air traffic today for those of us who live underneath the planes serving our area.

The recent tragedy underscores the importance of Teterboro in considering air safety. Both aircraft involved in the November 3 accident were destined for Teterboro and were in radio contact with the tower. Now, there is proposed expanding of Teterboro Airport to accommodate an even greater number of flights.

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It is clearly time to question those plans, and to examine the safety of the air traffic control system in our region. The thorough examination of air safety problems facing New Jersey is necessary, and can help prevent collisions in the future.

With that, Mr. Chairman, I hope that today we can answer a number of questions: Whether in fact an expansion is in order, or whether it could only further compromise the quality of life on the ground and safety concerns in the sky; whether the necessary investments are being made or are planned for Teterboro, now recognizing that it is no longer a small county facility, but a major national airport; And how we intend to deal with the question of the growing of some 17 airports in this region, all growing and all with enormous demands on their future; And how safety is going to be maintained, given the current congestion problems and the congestion problems already anticipated, given the growth of those airports in a time of decreasing relative investments in these airports.

I thank you, Mr. Chairman, for bringing your attention to this problem, and my colleagues for coming to Cliffside today.

Mr. MINETA. Thank you very much.

Congresswoman Roukema.

Ms. ROUKEMA. Mr. Chairman, I do not have a formal statement, but I surely do want to thank you and Mr. Hammerschmidt for bringing this formal hearing of the House of Representatives to Bergen County.

And on behalf of my constituents, the people who live in the Fifth Congressional District, I want to express my appreciation and tell you how terribly an important an issue we feel this is.

We are one of the most densely populated areas of the country, and surely as you have already outlined, an area that is growing in air traffic and the volume of which in a finite air space is the subject of our hearing today. I particularly want to reiterate a statement that you made, Mr. Chairman, which is that although we have deregulated airlines, we have not deregulated safety.

And I think that was a particularly fine statement, and I am here today to find out what the relative relationship is between safety and the need for airport expansion. And I thank you again on behalf of the Fifth District.

Mr. MINETA. Thank you very much.

At this time, I would like to call forward the very Honorable Frank R. Lautenberg, the U.S. Senator from New Jersey.

We have had the great pleasure of working with Senator Lautenberg on a number of issues, and it is indeed our honor to have you testifying before us, Senator Lautenberg.

TESTIMONY OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Mr. LAUTENBERG. We welcome you, Mr. Chairman, to New Jersey, and commend you for examining this very important subject at length. I am pleased to be here with you and my congressional colleagues from New Jersey. And, Mr. Hammerschmidt, we welcome you as well.

The hearing is timely and, of course, very important for New Jersey and for the Nation. This year we have witnessed a series of

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aviation tragedies that raise the specter of increasingly crowded and unsafe skies. After 2 years of an almost perfect safety record, domestic aviation mishaps have resulted in 278 deaths. And as you know, six people were killed in the midair collision over this community, Cliffside Park, in November. An accident that turned the densely populated community into an inferno. So the issues of airspace congestion and aviation safety are life and death issues in the heavily traveled airspace of northern New Jersey. And you, Congressman Howard and Congressman Torricelli have provided important leadership in the Congress on these vital issues.

Mr. Chairman, we are at a critical juncture in Aviation safety. A combination of factors, including airline deregulation, Federal budget pressures, and potential automatic across-the-board cuts under Gramm-Rudman, are creating a situation which does not portend well for safe skies for the traveling public.

So, I share this subcommittee's concern for aviation safety. As I have discovered in private meetings with air traffic controllers, it is important to hear first hand from those who have to cope on a day-to-day basis with the heavy volume of air traffic in the New York/northern New Jersey area. And today, I would like to address the antecedents of the Cliffside crash, and focus on some very serious problems in the air traffic control system.

The margin of safety in our skies is being jeopardized by the inability of the FAA to rebuild the air traffic control system at a rate which can keep pace with the increasing demand on our aviation system. I don't say that air travel is unsafe, but, I am saying that it is less safe than it has been and that it certainly can be made safer.

We often hear that flying is statistically safer than driving a car. Well statistically, that may be true. But there is a difference. When a person gets into an airplane, he or she makes certain assumptions. They assume that if the plane were unsafe, or if the pilots were not competent, or if the air traffic control system was inadequate, then someone, somewhere, would not let that airplane take off. And it is our job to make sure that that trust is not misplaced.

In 1981, this Nation had 16,251 air traffic controllers. The PATCO strike led to the firing of 11,700 controllers. At the time of the strike, 82 percent of the controller work force were experienced, seasoned full performance level controllers.

At the end of fiscal 1985, 4 years later, the Nation had 2,252 fewer air traffic controllers on duty. But worse, only 59 percent of them were at the full performance level. And the situation has not changed materially today.

As a matter of fact, at the end of January, we had 13,972 controllers, an actual reduction for the end of fiscal year 1985. But even these figures are misleading. The FAA counts air traffic assistants as controllers, but these assistants do not control traffic and are not in training to control traffic. When you subtract the 1,450 air traffic assistants counted by the FAA, the Nation actually 12,522 air traffic controllers, and only 8,587 of them—61 percent—are full performance level compared to the 82 percent in 1981.

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No matter how you count the numbers, the pace of rebuilding the air traffic control system is inadequate and the experience drain in the system is very serious.

Tremendous strain has been placed on the FAA and the air traffic control system by increased demand for air service and the airlines' desire to satisfy that demand in a highly competitive environment. That stress falls more heavily on air traffic controllers, trying to a perfect job under the most difficult conditions.

There are simply not enough air traffic controllers to handle increased air traffic in a safe manner. The result is an unbearably heavy workload for controllers and stress on the air control system.

Mr. Chairman, I serve on the Transportation Appropriations subcommittee. On February 19, Secretary of Transportation Elizabeth Dole testified before the subcommittee that she was seeking an increase in air traffic controllers. She wanted to have 15,000 controllers on duty by the end of fiscal year 1987. Now I share those goals, but I question whether she has the means to get there.

The General Accounting Office has reported to the Congress that 15 percent of the present air traffic control work force is eligible to retire, and will do so within the next 2 years. Many supervisors, who spend 36 percent of their time actually controlling traffic, will also retire. From February 1985, to September 1985, the FAA actually lost 300 controllers, according to Secretary Dole, due to retirement and washouts of new recruits. As welcome as the budget request for new controllers is, I question whether, in the fact of predicted retirements, we can return the air traffic control system to adequate experience levels any time soon. And additional actions are necessary.

In December, I introduced a Senate resolution urging the President to rehire some of the controllers fired in 1981. Ten of my colleagues joined as cosponsors. Seventy-eight members of the House have undertaken a similar effort.

Why did I do that? Certainly not because I am a partisan of PATCO. I do not argue that the strike was legal, or that those involved should not have been released. That is water under the dam.

The real issue is the pool of talented air traffic controllers that fired PATCO members represent. This pool of talent was trained at substantial Government expense. It could provide us with badly needed expertise to relieve existing pressure on the air traffic control system.

These controllers lost their jobs, income, pension benefits, and, in some cases, their families and their homes. They certainly have suffered as a consequence of the strike. The traveling public has suffered as well through delays and a dwindling margin of safety. Both parties deserve relief. It's plain common sense.

Now, Mr. Chairman, Gramm-Rudman represents a new threat to efforts to revitalize the air safety system. FAA Administrator Engen was asked by the Senate Commerce Committee about the impacts on air safety of the magnitude of the cuts contemplated by Gramm-Rudman. Should the act be triggered, it was as we know on Saturday, we can expect blind, across-the-board cuts of 17 to 25 percent in the FAA's budget for next year. Mr. Engen testified that

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there was no way he could achieve such savings without cutting into safety—his comment.

This kind of mindless deficit reduction was the reason I opposed Gramm-Rudman. Gramm-Rudman makes no distinctions between programers priorities. Will not make allowances for increases in traffic demand. Gramm-Rudman is insensitive to the disruption of lengthy airport delays. And Gramm-Rudman doesn't visit bereaved families or friends.

An adequately staffed, seasoned air traffic control work force is essential to meeting the legitimate demands of the traveling public for safe and efficient air transportation.

Aviation is vitally important to this country and to this State, and we are fortunate enough to have many corporate headquarters located in New Jersey. And much of their commerce and many of their employees depend on air travel. The deregulation of the aviation industry and the growth of the "children of deregulation," like People Express, have been a very positive development for our State. People who could not afford to fly before, now find flying competitive with other modes of transportation. Newark Airport, long the stepchild of area airports, has been growing rapidly with distinct benefits to the region.

But, the increased demand for air travel is occurring at precisely the same time that the aviation safety system is struggling to keep up with demand. And is at the nub of my concern.

We can respond in one of two ways: We can dampen demand by imposing delays or limitations through Government fiat, or we can better align our safety technology and manpower with the demands on the system. And frankly, I favor the latter approach.

To my mind, that means the prompt selective rehiring of some of the fired air traffic controllers.

FAA is hiding its head in the sand. The FAA budget submission for fiscal year 1987 made the following assertion: "None of the tragic air carrier accidents in 1985 were caused by the air traffic control system."

Administrator Engen should again read the transcripts from the Delta Airlines crash in Dallas last summer, and review our experience in New Jersey.

On December 12, 1985, U.S. District Court Judge Sarokin ruled that an August 29, 1982, fatal crash at Essex County Airport was caused by controller negligence.

The verdict is the same for the Cliffside crash. In a National Transportation Safety Board briefing I requested on Cliffside Park, they made it clear that the primary cause of that crash was a failure of the air traffic control system. The public hearings held here last week confirm that conclusion.

We can't be content to point out the failure of the air traffic control system or an individual controller. We cannot be content to pinpoint the problem. If that is all we do, we are abdicating our responsibilities.

The controller involved in the Cliffside crash made a mistake. He identified a plane going east as going west. The system in place to help that controller do his job failed him. He did not know that one of those planes was approaching the airport at Teterboro, and he

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should have. We still, however, have not asked or answered all the questions.

The local controller on duty at Teterboro was transferred to Teterboro from the TRACON radar center. The TRACON facility serves the entire New York region, and is one of the FAA's most difficult assignments. The controller in question did not make the grade at the TRACON facility. Transfer to a less intense environment is not unusual in a situation like this, but why to Teterboro? And why did the controller check out as a full performance level controller at Teterboro in 6 months, an unusually short qualification period. This experience raises the question of whether personnel within the air traffic control system are being pushed into positions before they are ready to handle them.

Mr. Chairman, my remarks are not intended to be critical of air traffic controllers. They do an excellent job. We ask these people who work in these facilities and towers not to do just a good job, but to do a perfect job.

In the air traffic control system there is no room for mistakes. Our air traffic controllers are overworked and under intolerable stress. They need help and the public deserves better protection. And I want to see them get it.

Mr. Chairman, I again commend you and your colleagues for your leadership on aviation safety issues. And I appreciate your willingness to come to New Jersey and hear our problems first hand. Thank you for the opportunity to present my views.

Mr. MINETA. Thank you very much, Senator Lautenberg for your very fine statement. Let me ask, Senator, a major question facing this hearing is whether expanding airport capacity in northern New Jersey will only contribute to the saturation of the airspace and the likelihood of collisions like the one that took place on November 10. And I am wondering how do you approach this kind of a question?

Mr. LAUTENBERG. Mr. Chairman, I would like to make note of the fact that I served as a commissioner of the port authority before I joined the U.S. Senate, and we had jurisdiction over the airports in this area, all the major airports in the region.

And it was believed then, and it is believed now, that we can handle the increased traffic. It is going to take cooperation of the airlines. It is going to take some cooperation from the traveling public. But certainly it is going to take from us, as Federal legislators, the best that we can provide by way of an air traffic system.

There are techniques, there are opportunities to do things far better than we have. And not the least of which is the full complimenting of the air traffic control group. We see people under enormous stress, enormous strain, who can't always function the way they ought to be in view of the tenseness of the situation in the tower.

But there is technology as well: weather technology, radar technology. So, we can do lots of things, I would like to point out that we are not just talking about three airports in this region. We are talking about Teterboro Airport, which has a substantial load of traffic; we are talking about Westchester County, which also invades the same airspace; we are talking about Morristown, which invades the same airspace. But it is doable.

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The question is whether we as a government are willing to devote the resources and the effort to make it work.

Mr. MINETA. Are you familiar with Senator Kassenbaum's bill to try and take the aviation trust fund out from under the unified budget and Gramm-Rudman provisions—at least that is what she is attempting to do. I am not sure that it does it as well as she intended.

But are you familiar with that?

Mr. LAUTENBERG. I am not familiar in detail, though I typically do not have a problem with a dedicated fund if it is adequate to do the job, and maybe we ought to fence it in some way. But right now, Mr. Chairman, you know so well that we fenced so many things except the things that we disagree with. And, as a consequence, we find programs that have high priority getting very short bits of attention, and those that have less priority, for instance some of the defense budgeting that we don't think deserves the same kind of priority of resource.

So, I would be interested in any approach that protects the air traveler. For us in this country, air travel I think is the mucilage that makes the system stick together. Quite frankly, we have been able to encompass huge distances and isolated regions into the economic matrix because we have good air travel.

And the problem is made worse, Mr. Chairman, I don't know whether you or my colleagues know this—the chairman of Greyhound wants to get out of the bus business. He says it is a lousy business. He doesn't make any money in that business. Well, where are we going to put these people? Especially since Amtrak is likely to fall under the ax as well, Mr. Chairman. Maybe we can all start hitchhiking and turn friendly once again.

Mr. MINETA. Thank you very much.

Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

And thank you, Senator Lautenberg, for your statement. I am delighted to be in your State and joining you here for these hearings this morning.

I noticed in your statement that you call for selective hiring of some of the fired air traffic controllers. If they are to be rehired, what do you think the criteria should be for them?

What criteria should be used?

Mr. LAUTENBERG. I think the only criteria that should be used is can they be upgraded quickly enough to catch up with any technological changes that have taken place in these last few years.

I would like to make certain that they understand that the price they paid for their misdeeds is a permanent price. They are not going to come back in senior grades, and I don't think that those that I talked to expect to have their rights restored because it is unjustified. What I am looking for is those who can contribute to the system. We don't do them a favor as much as we do the traveling public a favor.

So, I am looking for the basic rawest element. Has this person's skill level been maintained, easily told by testing. And can the person be brought up to snuff very quickly by additional training for the changes that have been made in these 4 years.

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Mr. HAMMERSCHMIDT. I wondered whether, as a result of your very fine experience on the Port Authority and on the Appropriation's Committee in the Senate, you have any idea how long it would take to retrain these fellows to bring them up to the proficiency that would be required?

Mr. LAUTENBERG. Some of this would be suggestive on my part, Mr. Hammerschmidt. What I have seen is people who have come back into the system, there are several hundred, as I am sure you know, that have been brought back. It didn't create any morale problems, as a matter of fact, some of those people have moved into supervisory roles. And they said that the retraining cycle was fairly quick.

Now, we have seen what has happened as we passed people through the academy. We have seen the number of washouts. We have seen the people who under the stress of live mode, operating the towers, can't take it. We have seen the anxiety of those who are there who would like to retire. And I would tell you that I think that those who have had years of experience having been on those firing lines, wanting very much—I have met with some of the finest controllers, and again I am not carrying the union's mission, I am carrying the individual's interest as far as the traveling public is concerned—I have seen the kind of almost zeal and ardor, a passion to get back and do this job.

The people who did this job, who liked doing it, who are well-suited to it, are a rare asset. And I think we ought to bring them back as quickly as we can.

Mr. HAMMERSCHMIDT. I would just make one other comment about your statement. It was my impression that the National Transportation Safety Board hearings, which I believe were held last week, had not really made a finding of probable cause and of course they won't do that until the full board examines all the facts brought out in the hearings and thoroughly examines all the professional investigator's findings.

Mr. LAUTENBERG. About this incident? Well, I think there have been newspaper statements, if I am not mistaken, by the individual who admitted an error.

Now, I visited the tower in Newark, and visited other control centers. There was kind of a basic system that tells you about routing. When an airplane takes off, as you know, they have to give a destination and that is plugged into a system which relays a message that is very specific about what the flight plan is for this airplane, unless they are doing pleasure flying under visual conditions.

This one, the message didn't come through and the back up system didn't work. And I know at least, no accusing the individual but certainly accusing the system of not having worked. Neither the first message, nor back up system was effective. And until that airplane met with its fate in the skies, people at Teterboro were not sure where that airplane was going.

Mr. HAMMERSCHMIDT. Well, I too have read those accounts. But just for the record, the point I wanted to make is, and I quote from Ms. Goldman's opening statement, which she made before and to us here:

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Neither I, nor any other Board personnel will attempt to analyze the facts or announce the probable cause at the close of this hearing. Such an analysis and cause determination will be made by the full Safety Board after due consideration of evidence.

And I just want to make that clear for the record. Thank you.

Mr. MINETA. Mr. Roe?

Mr. ROE. Thank you, Mr. Chairman.

I too want to commend Senator Lautenberg for a splendid composite statement, and I know of your personal friendship, and I know of your great commitment to improving the whole air traffic system in our area.

But the thought occurs to me, and I think you make a very good point, that when we are speaking about as the Chairman pointed out at the opening hearing today, should we be expanding some of the airports in the area. But I also think it is clear to say that some of the expansions that are going in Newark right now are going to add to the safety of the airport, and it is not the thought in mind that it is just going to be some other addition to expand for expansion sake.

Isn't that true from your own experience of the improvement of the runways that are going on now and the expansion of that particular section. So, all expansion isn't bad?

Mr. LAUTENBERG. Of course not.

As a matter of fact, if you don't expand the parking there pretty soon, we are not going to be able to get through to the airplanes.

Mr. HAMMERSCHMIDT. I think that point ought to be made.

If I may, Mr. Chairman, I think another point that ought to be made is that it is also true as Senator Lautenberg has testified, and also in your opening statement, that many of the satellite airports, such as Morristown, for example, or the Essex County airport, do not even have radar systems that lock into the overall metropolitan system.

So, I am sure Mr. Torricelli, our colleague, can speak further to that issue. But when you look at the number of smaller airports, such as Linden and so forth, all in the region, many of those are not locked in totally to the radar grid.

Isn't that really a correct statement?

Mr. LAUTENBERG. I am sure it is. The more casual and recreational fields are typically not in there. There are, of course, rules that govern their flight behavior: east, west, north, south, distancing and spacing, and so forth.

Mr. HAMMERSCHMIDT. Might this not be an opportunity to look beyond the tragedy. Is this not an opportunity to bring into full focus what is necessary in the metropolitan New Jersey/New York area that is a complete upgrading of all of the technical facilities.

And if Gramm-Rudman, as you testified, goes through, and we don't fence off the aviation trust fund, we just won't have the resources to do that.

Isn't that reasonable to say?

Mr. LAUTENBERG. It is fair to say, Congressman, that there is technological improvement being made in the service sectors that control the airspace here. But the fact of the matter is that a lot more people want to travel than we have capacity for. And I know that you and Congressman Torricelli and Congresswoman Rouke-

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ma have sat on these runways, sky as clear as it could be, and it happened in the air just last week, and we sit for 45 minutes waiting for air traffic delays to clear up. And the whole corridor is as clean as a whistle, and we can't understand it. It is simply the overloading of the system.

So, I say bring the system up to the capacity, which I think is what you want to say. Bring the system up to the capacity. We are a Nation that needs air travel. So why should we retard the growth for any reason.

Mr. HAMMERSCHMIDT. We haven't invested the resources in the system. That's what I am trying to say.

Mr. LAUTENBERG. Not sufficiently certainly.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

Mr. MINETA. Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman.

Senator, one of the things that makes you valuable for our State is that you are the Senator who is more than a Senator because of your business experience and port authority experience. And I would like to use that last role for a moment, if I could, to help me understand and get some reactions from you about the port authority.

It occurs to me at this point that the port authority having been created by the public to plan for transportation in this region has become an advocate of the transporation industry in this region. The fact is the port authority has become an advocate for the aircraft industry in this region to some extent. The port authority may receive soon an expansion proposal for Teterboro Airport. An expansion at a time when the adequacy of safety for the airport for its current size and operations is not clear. There are questions about the capacity for air traffic control and a generally uncoordinated air traffic system in the region.

I have asked Governor Kean to communicate to the port authority his assurances that he would veto any expansion plan unless it is clear that there are no adverse impacts in quality of life on the ground, and no possibility of increasing air traffic safety dangers in the skies. He has yet to make that full assurance.

I wonder if you could react to that?

Mr. LAUTENBERG. Well, I certainly don't think that we ought to expand Teterboro Airport or any airport in this region if we can't guarantee to those who live near the airports or under the airplanes, that they are going to be safe as well as the travelers. So, I think that the first thing we ought to establish is can we be guaranteed, as much as it is possible to guarantee a system, that any expansion will not violate safety requirements.

Second, the port authority I think is a very reflective, a very conscientious, very public spirited agency. Believe me, I see many decisions that were offered to them, which they review with public hearings in detail and voted against.

Now, as you indicated in your comments, the Governors, the New York State Governor and the New Jersey Governor, are the final decision maker in whatever the port authority does. So, whatever the grand plans may develop, Governor Kean in this State, certainly has the opinion of last resort.

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But I would say that I think that any decisions made to expand any of the airports ought to be made under the safety umbrella, and not knowing what is being proposed for Teterboro, I have flown in and out of Teterboro for a lot of years in corporate travel, and it is a very effective and efficient airport. But by no means should we jeopardize the well-being of those who live in the area or those who travel.

Mr. TORRICELLI. So, you join our call for the Governor to give assurances of a veto unless we understand that the safety that permits an expansion, and some assurances of quality of life on the ground are there?

Mr. LAUTENBERG. Absolutely.

Certainly we can't argue the quality of life.

Mr. TORRICELLI. Senator, it occurs to me too that what is not required is a regional plan for air traffic in our region.

The port authority is exercising control really only over a few of the airports.

Mr. LAUTENBERG. Only over airport operations. That is their assignment. They are only responsible for the air traffic detail.

Mr. TORRICELLI. And only involved in 3 of the 17 airports.

Mr. LAUTENBERG. They are involved in four owners.

Mr. TORRICELLI. La Guardia, Kennedy, Newark, and the owner of Teterboro. So 4 of the 17.

What traffic is going to what airports, what growth is taking place in the remainder of those airports, has been largely a commercial decision without any coordination. For example, the enormous growth of Teterboro has been the result of both business expansion, but to a greater degree, the increase in air courier services. That decision was made by no agency because of the public interest. It did not involve a decision of the port authority, or even the Teterboro Airport. But it became commercially competitive to move this tremendous volume of courier flights to Teterboro.

My point then becoming that wouldn't it be appropriate at this point for the port authority in conjunction with the States of New York and New Jersey, to conduct a study to result in a plan of where this traffic should be located. Perhaps it is no longer appropriate for the same degree of recreational air travel to take place at Teterboro Airport. They should be moved to a more distant airport. Perhaps the courier services that have chosen Teterboro as their base should be removed to a more remote airport, so that we can better balance the quality of life questions with congestion questions, the traveler safety questions, by looking at all 17 of these airports rather than letting economics dictate which airport will have which kind of a future.

That is going to require that the port authority have an expanded role, and that our State exhibit some leadership in deciding on the future for each of these facilities.

Could you react to that kind of a proposal?

Mr. LAUTENBERG. Without picking the specific parties to that kind of a review, certainly I would endorse a review of air congestion in this region. I would tell you this, that travel survey after travel survey when I was at the port authority, had people indicating that they would rather go to La Guardia Airport in New York, take a chance on the delays, the parking unpleasantness, the

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ground traffic delays. They would rather go to an airport like that or an airport like Newark than move just a few miles away.

And I guess that has some influence on the things that we say or the things that we decide. However, there has also been an attempt by the port authority, and I voted on several occasions to increase the landing fees for noncommercial, nonscheduled carriers in there to try and reduce the volume of traffic that comes from that lane. And I think that it is a good idea to propose to them that more of that takes place. Perhaps the only way to get in there one day in the future is through helicopters off the main street.

Mr. TORRICELLI. What happened to these proposals?

Mr. LAUTENBERG. The fees have gone up substantially, but in terms of this I am just throwing out an idea here as we discuss it. But I think that certainly it is reasonable to review the role of the smaller airports in terms of what they contribute to the area, in terms of whether they create more problems than we are aware of.

There has not been, as far as I know, a major study of what the problems are. There is such competition for the airlines to get into La Guardia, and as you see, Newark just continues to grow. Kennedy carries as much travel practically as it can handle. So the demand is there, and what we have to do, Congressman, I think is to try and satisfy that commercial demand because as soon as we try to restrict that in any way, what we do is restrict the growth opportunity for our area.

So, the whole thing, I think, ought to be put into a review format. I think it would be an excellent idea.

Mr. TORRICELLI. Mr. Chairman, just to conclude, you really are exact to the point that I was suggesting in that the way to regulate the traffic into the region is through some of these landing fees. And what we have proposed in the past to Teterboro and to the port authority is that, for example, they raise fees substantially in the evenings at Teterboro to change the economics of the courier services landing at Teterboro which has made life so unpleasant.

So that they might under their own economics choose a more distant suburban airport where the technology could be provided to sort out the travel which is acceptable at Teterboro and that which is useful for our own economy and that which can find other locations. That is the kind of more imaginative and more aggressive approach that I have suggested with the port authority in the past, that could help accommodate business interests and for the people who live in the region.

Thank you, Mr. Chairman.

Mr. MINETA. Congresswoman Roukema.

Ms. ROUKEMA. Senator Lautenberg, thank you so much for your statement.

Following up, however, on what Mr. Torricelli has just said and your comment, certainly it makes all kinds of good sense to have a regional plan. But I thought that, per se, is what the port authority was all about, is it not?

Mr. LAUTENBERG. No.

Remember I am still in the U.S. Senate, but the port authority mission is to provide the airport facility, to provide service to and from that on the ground as much as they can, to make sure that it operates sufficiently. But once you get up in the airspace, the port

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authority have virtually no control—none at all. The air traffic controllers don't work for them.

Ms. ROUKEMA. I was really referring to the ground expansion.

Mr. LAUTENBERG. Sure.

Ms. ROUKEMA. Let me get back, Senator, because I want to be clear about what you said, and I hope I was clear.

You indicated, to summarize your statement, that we can handle increased traffic.

Mr. LAUTENBERG. Yes, that is my belief.

Ms. ROUKEMA. And that means expansion in the various areas where existing airports and maybe some future sites. But we can handle the increased traffic if we have proper technological improvements and meet certain safety standards, specifically the need for air traffic controllers.

So, you don't question the potential?

Mr. LAUTENBERG. I don't think that it is unlimited, Congresswoman Roukema, I said one other thing, however. It is going to take the cooperation of the airlines and the public as well. I mean, it is not possible to squeeze additional quantities through this little funnel. At some point, we have reached the maximum.

Ms. ROUKEMA. But you do not feel that we have reached that by an stretch now?

Mr. LAUTENBERG. No.

Ms. ROUKEMA. That is very important to the whole question of the Teterboro issue as a component of the regional issue.

Mr. LAUTENBERG. I am not selecting out which airport can handle it. I know that Newark has a larger capacity than it had. And I don't know enough about Teterboro to attest to its ability to handle substantially more traffic.

I know that when I sit on the ground there trying to go some place on occasion from Teterboro, and I do that, that I am tied up not because the runway is filled or because they are landing aircraft, it is because the flight plan that we filed conflicts with other requests that have already been made from the other airports.

Ms. ROUKEMA. Without belaboring the question of Gramm-Rudman, I would like to point out that we, the Congress, have in our power to avoid the across the board cuts that you have described in terms of setting priorities and balancing out some of the competing interests here. And certainly, I would agree with you that there is nothing more important than maintaining the integrity and the safety of the air traffic system.

The President's budget has recommended 1,000 new air traffic controllers, and I believe 500 safety officers. If we were able to come up with the money for that kind of an increase, without disadvantaging some other essential part of the budget, would you consider that to be adequate for a 2-year period?

Mr. LAUTENBERG. Well, there is money and there is spirit, Marge. And the spirit is not there even if the money were because we haven't been able to fill the complement of controllers for which we do have funding. There is a certain stubborness that exists in the way this agency operates. There is an unwillingness, we are still looking at retribution and we want to make those people pay. Even the worst criminal, once they pay their penalty, is allowed to come back into civilian life.

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I think we are talking about several things at the same time. We do need more money, but we need a commitment that says we mean it. I was at the FAA Research Center, and they are now asked to take about a $3 million cut and next year a lot more. Well, you can't get engineers and scientists and technicians to sit there and wonder every day whether or not their job is going to be there.

There are plenty of jobs for people with skills outside, let me tell you, and that includes those who were air traffic controllers and so forth. A lot of those people want to come back here because it was the best job that they felt they had. But it has to be accompanied by a serious decision that we are going to continue to fund these programs, that these are long-term things.

You can't operate research laboratory or any kind of facility on scraping together the resources each and every year. And in terms of Gramm-Rudman, I guess that Congress has the power to settle the differences without resorting to the Gramm-Rudman cuts if we had a President who was willing to say at the same time that we ought to find ways to produce some revenues because we just don't have enough. And I am not talking about tax, I am talking about good ideas like tax amnesty and things of that nature, which he is unwilling to consider.

So, we have a mixed bag of priorities I am afraid, Congresswoman, and I think we can do this job. We have a responsibility, especially from New Jersey and from States like California. Air travel is an essential factor in the growth and development of that State. We don't have oil and gas and the other natural resources. We have to depend on our skills, and our inventions, the quality of the people that we bring in and out of our communities.

Ms. ROUKEMA. Thank you, Senator.

I agree with you on your last statement, and I commend you for it.

Mr. HAMMERSCHMIDT. Will my colleague yield?

Ms. ROUKEMA. Yes, I will yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. I just want to make a comment that I think is pertinent to the concern we all express here. That is that there is a $4.5 billion uncommitted surplus in the airway trust fund. And if Congress would take the airway trust fund out of the unified budget, and use it for the purpose that it was intended, I think that we would forego the funding problems that we have great concern over here this morning.

Mr. LAUTENBERG. Yes, I would like to do the same thing with Social Security.

Mr. MINETA. As it relates to Social Security, the President said it was fair.

Mr. LAUTENBERG. Let's get it right to those people for whom we pay the taxes.

Mr. MINETA. Senator Lautenberg, let me thank you very, very much for your fine testimony and for taking the time to be here today and to honor us with your testimony. We appreciate it very much.

Mr. LAUTENBERG. Thank you.

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Mr. MINETA. I would now like to call Mr. Herbert R. McLure, Associate Director for Transportation, U.S. General Accounting Office.

TESTIMONY OF HERBERT R. McLURE, ASSOCIATE DIRECTOR FOR TRANSPORTATION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY CHARLES S. COTTON, GROUP DIRECTOR; JOSEPH M. McGRAIL, EVALUATOR IN CHARGE; AND TOM HUBBS

Mr. MINETA. Mr. McLure, your statement will be made a part of the record, so please go ahead and introduce your colleagues and proceed in your own fashion.

Mr. MCLURE. Thank you, Mr. Chairman.

The people here at the table with me, on my left is Charlie Cotton. The testimony this morning is going to be based on one part of a whole line of work we do connected with the national airspace system, and Charlie manages all that work. The two people on the right are Joe McGrail and Tom Hubbs.

You have already heard a number of numbers this morning that came from their work. They have spent the last year working on air traffic control issues, and our testimony this morning is specifically based on their work. And together we will be happy to try and answer any questions you might have after our statement.

Air traffic in this area has now reached record levels and is expected to continue to grow. The first major labor-savings features of FAA's planned automated air traffic control system, however, will not be available until at least the early 1990's. This, coupled with questions about FAA's progress in rebuilding the controller work force after the strike have caused growing concern in the Congress over the safety of our national airspace system.

Because of this concern, we spent the past year collecting and analyzing information on various aspects of the 74 busiest air traffic control facilities in the continental United States, including five of the six air traffic control facilities serving northern New Jersey. While the Teterboro terminal was not originally included in our survey, we also collected analyzed its staffing and air traffic activity data for this hearing. As agreed, our testimony today will cover in detail the size and composition of the controller work force as well as controller work load and overtime for these facilities. We will also present some background information on each of these topics.

There were two principal sources for the information we are presenting today. One source was data on staffing, overtime, and air traffic activity from FAA's payroll, personnel, and other systems for the period from July 1981 through September 1985. The other source was an extensive questionnaire survey that we did of some 4,500 radar qualified controllers, 1,000 first-line supervisors, and the managers of the 74 air traffic control facilities. Overall, 75 percent of those we surveyed responded, and we have used the questionnaire results to underscore conditions that are already apparent in FAA's data. Various appendices are also attached to our statement to illustrate some of the information that we have found.

Basically our work at the six facilities has shown that, first, FAA does not have as many fully-qualified experienced controllers at

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some of these facilities as the managers, supervisors, and controllers believe are needed, and as are called for by FAA's goals. And this problem cannot be resolved in the near term. In addition, FAA could lose more supervisors and controllers through retirement than it expects to.

Second, air traffic activity is at the point where controllers and their supervisors believe they are overworked during peak periods.

Third, controllers report working at a radar position during peak periods without a break or a change of position for more time than they believe they should have to and than is called for by FAA's policy.

And fourth, overtime is likely to remain high at the New York Center and Tracon, and controllers and supervisors feel that the overtime being worked is negatively affecting controller's ability to perform their duties.

In their responses to our questionnaire, supervisors confirmed that each of these conditions negatively impacts the maintenance of air traffic control system safety.

Before continuing, I want to point out that most of the controllers, supervisors, and managers who responded to our questionnaires rated the overall safety of the air traffic control system as adequate to excellent. But the supervisors and controllers also identified concerns about their ability to maintain a safe system.

I will now talk about some of the specifics that we found. The air traffic control system nationwide is being operated with fewer controllers overall, and far fewer full performance level controllers than before the August 1981 strike.

At the time of the 1981 strike, FAA believed that the 16,200 controllers it had were more than it needed. Since then, FAA set out to rebuild the work force with several thousand fewer controllers. For fiscal years 1984 and 1985, FAA said its goal for controllers was about 12,500 as part of the total work force goal of about 14,300.

As of September 30, 1985, FAA had about 12,500 controllers nationwide. The smaller work force, however, has made more of a difference at some facilities than at others. For example, FAA has rebuilt the controller work force at the four airport terminals serving northern New Jersey to about their pre-strike level, but there are 48 per cent fewer controllers at the New York Center, and 38 percent fewer controllers at the New York Tracon than before the strike.

The composition of the controller work force is also far different than it was before the strike. As of July 31, 1981, FAA had 13,200 full performance level controllers who made up over 80 percent of the work force. Only about 3,400 FPL's remained after the strike. And as of September 30, 1985, there were about 8,300 full performance levels, comprising about 66 percent of a much smaller work force. In addition, FAA had about 4,200 developmental controllers and 1,500 air traffic assistants, a new position established since the strike.

At the six FAA facilities serving northern New Jersey there were 562 FPL's before the strike, and as of September 30, 1985, there were 314 or 44 percent fewer. The change in the number of

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FPL's range from a 14 percent increase at Teterboro to a 54-percent decrease, that is 186 FPL's, at the New York Center.

FAA has established an FPL staffing goal of 75 percent at all air traffic control facilities. FAA had achieved its FPL staffing goal at the New York Tracon and at Teterboro, and was approaching its goal at the Kennedy Terminal, where they had 72 percent as of September 30, 1985. However, only 60 percent of the controllers were FPL's at the New York Center and the Newark and La Guardia Terminals. And don't forget that the percent of FPL's at the New York Center and New York Tracon are based on a much smaller work force than before the strike.

We asked controllers, supervisors and facility managers at the five air traffic control facilities serving northern New Jersey that were included in our survey their opinions on staffing. 94 percent of the controllers and 91 percent of the supervisors said they believe there are fewer FPL's than are needed. Three of the five facility managers agreed, and also said that their authorized controller staffing levels are not adequate.

We also asked the supervisors and managers their opinion about how much positive or negative impact several factors, including the number of FPL's available, were having on maintaining safety. 65 percent of the supervisors said the lack of FPL's was having a negative impact, and one of the five facility managers also answered with the same opinion.

Now, FAA faces difficult obstacles in building towards its FPL staffing goal.

First, it takes time for a controllers to acquire the training and experience to qualify as an FPL.

Second, training attrition has averaged about 50 percent.

And third, many of the experienced FPL's and supervisors have retired or are approaching retirements. These add up to a long term controller staffing problem.

Before the strike, it took 4 to 5 years to qualify as an FPL. Since the strike, the Office Of Personnel Management has waived time-in-grade requirements so that controllers can become FPL's in about half that time. Even so, in the 4 years since the strike, FAA has replaced only 57 of the 243 FPL's it lost in the New York Center, and 68 of the 105 FPL's it lost at the New York Tracon.

Regarding training attrition, and that includes failures and withdrawals, only 58 percent of those hired since the strike have been able to pass the FAA academy training requirements. And on the basis of the facility managers' estimates, the facility attrition rate for those who graduate from the academy has averaged 59 percent at the New York Center and 17 percent at Tracon. The attrition rate at the terminals included in our survey has been minimal though according to their facility managers.

Finally, our survey suggests that many more controllers will retire in the next few years than FAA is planning for. 78 percent of the controllers, and 83 percent of the supervisors at the five facilities who are eligible to retire within 2 years told us they would retire.

Certain facilities serving northern New Jersey could be especially hard hit by retirements. For example, 26 of the 44 supervisors at the New York Center are already eligible to retire, and our survey

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indicated that 21 of them definitely or probably will retire within the next 2 years. If replacements for the retired supervisors have to come from the ranks of the Center's FPL controllers, then the controller staffing situation at the Center will worsen.

FAA is trying to improve FPL staffing through a special program to encourage transfers into the New York Center and six other centers where the lack of FPL's is most acute. FAA received about 500 offers nationwide to participate in this program as of its cutoff date in December 1985. However, only 30 expressed an interest in transferring to New York.

Controller workload is affected by the number and the type of aircraft they are handling at any one time, the complexity of what they have to do, and the amount of time they spend at a control position during their shift. Immediately following the strike, the FAA imposed special restrictions that reduced air traffic by about 20 percent because of the severe shortage of controllers. As FAA hired and trained more controllers, it lifted the last of the restrictions in December 1983, with the exception of flow control, which has been used in some form since 1970.

Air traffic has grown substantially in northern New Jersey on the basis of a comparison of activity during the first 6 months in 1981 to the same 6 months in 1985. At these six facilities traffic increased by over 18 percent, including a 54-percent increase at Newark Terminal. Since the first major labor-saving features of FAA's planned automated air traffic control system will not be available until at least the early 1990's, controller workload at these facilities will likely continue to be a concern for some time.

Our survey showed that 77 percent of the controllers at the five facilities that work radar believe they are required to handle more traffic during daily peak periods than they should be handling. Their supervisors said that 181 of the 473 controllers under their supervision are required to handle too much traffic. The five facility managers, on the other hand, disagreed, stating that only four, or about 1 percent of the radar controllers, are required to handle more traffic than the managers feel is appropriate.

Over 90 percent of the radar controllers at the five facilities who believe their workload is too high selected inadequate flow control procedures and airline schedules as the top two reasons. Over 90 percent of the supervisors who said controllers under their supervision are required to handle too much traffic also selected those as the reasons.

Over 70 percent of the controllers selected the shortage of radar controllers and the configuration of air traffic sectors as reasons why their workload is too high, and 63 percent of their supervisors agreed. Moreover, 43 percent of the supervisors were dissatisfied with the amount of say that they had in configuring their sectors.

Another significant workload issue is the amount of time a controller must spend on position. FAA's policy is that controllers should not work more than 2 hours at a radar position without a break or a change of position. But 69 percent of the controllers at the five facilities reported working continuously for 2 hours or more at a radar position during peak periods. About two-thirds said they are working too long without a break during peak periods. And more than 55 percent of their supervisors agreed.

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On average, those supervisors themselves spend almost 40 percent of their time working traffic, and over 60 percent of them believe this hinders their ability to carry out their supervisor responsibilities.

With regard to our question about the impact certain factors have on maintaining air traffic control system safety, over 80 percent of the supervisors believe that the amount of traffic workload is having a negative impact. We asked controllers about two air traffic control services which can have a bearing on safety, and which they provide pilots only when they have time—responding to pilot's requests for traffic advisories and weather advisories. Even though a third of the controllers said they seldom if ever decline requests for traffic advisories, another third said they often do. Over 40 percent said they seldom if ever decline weather advisory requests, but one in four said they often do.

FAA is heavily dependent on overtime to operate the air traffic control system, particularly at its centers. Controllers at the New York Center worked over 60,000 hours and 54,000 hours of overtime during fiscal years 1984 and 1985, respectively, placing it in the top three centers in the country for overtime in hours worked in both years. Similarly, controllers at the New York Tracon worked over 12,000 hours of overtime in each of the 2 fiscal years ranking it second for overtime hours worked among the 54 busiest terminal facilities in the United States. Most of the overtime at the the New York facilities is built into the work schedule, and between 58 percent and 72 percent of the supervisors and controllers said they are expected or required to work overtime.

Fifty-two percent of the controllers and 54 percent of the supervisors at the New York Center said they work more overtime than they want. At the New York Tracon, 31 percent of the controllers said they work more overtime than they want, and 28 percent of the supervisors agreed.

Of the controllers who said they are working more overtime than they want to, the overwhelming majority also said that overtime was having a negative impact on their overall ability to perform their duties. With regard to our question about maintaining system safety, 68 percent of the Center supervisors and 28 percent of the Tracon supervisors believe that the amount of overtime is having a negative impact.

Let me conclude by recapping some essential points. At a time when air traffic activity increased by over 18 percent, the total number of controllers serving northern New Jersey was reduced by about 40 percent and the number of FPL's by about 44 percent, without the benefit of planned labor-saving automation. We believe that the impacts of this situation are clearly reflected in the survey responses of controllers and supervisors about staffing levels, work load, and overtime requirements at their facilities.

On the basis of the expressed concerns about the ability to maintain a safe system, many controllers serving northern New Jersey are being stretched too thin, and their ability to maintain the proper margin of safety in the face of expected continued growth in air traffic activity is in doubt. Meanwhile, the FAA faces some difficult obstacles to rebuilding the controller work force and FAA's

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ongoing efforts will have little positive short-term impact upon staffing or work load.

Within the next several weeks, we plan to propose recommendations to FAA to improve the air traffic control system. These proposed recommendations and the Department of Transportation's response will be included in a report to the Chairman of the House Appropriations Subcommittee on Transportation, which we hope to finish soon.

This concludes my testimony, and I will be pleased to answer any questions you might have on the testimony or anything else you would like to know.

Mr. MINETA. Thank you very much, Mr. McLure.

Before proceeding to questions, I would like to express our appreciation for the important work which GAO has done in analyzing whether the air traffic control system has been adequately restored following the PATCO strike.

You have raised many good questions about the adequacy of the system, and your study points to a number of very important problems which need to be studied and resolved. The study has been conducted with the highest degree of professionalism, and will make a major contribution to improving the efficiency and the safety of our air traffic control system. And frankly, we look forward to receiving your recommendations.

Mr. MCLURE. Thank you.

Mr. MINETA. Mr. McLure, in your testimony you noted that most of the controllers, supervisors, and managers who responded to GAO's questionnaires rated the overall safety of the air traffic control system as adequate to excellent.

Could you provide the committee with the actual numbers or percentages for all the responses you received to this question, as well as those received from the six air traffic control facilities serving northern New Jersey?

Mr. MCLURE. Yes, we can, but we don't have those here.

Mr. MINETA. Now, I would like to explore how the air traffic control situation in the six facilities serving northern New Jersey compares to the rest of the country.

First of all, have the reductions in the controller work force since the strike been greater in the six facilities serving northern New Jersey than elsewhere in the country?

Mr. MCLURE. At the New York Center they have been somewhat greater on average than in the in the rest of the country. At the other facilities in New York, either there has been less loss of full performance level controllers or about the same as the rest of the country.

Mr. MINETA. Are the controllers in the six New York/New Jersey facilities working more overtime than controllers elsewhere in the country?

Mr. MCLURE. Certainly at the New York Center and the New York Tracon, they are among the highest places where overtime is worked in the country. The other facilities are closer to the average for the country.

Mr. MINETA. And are controllers in the six New York/New Jersey facilities more likely than controllers elsewhere to believe

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they are handling more traffic than they should, or that they are working more overtime than they want?

Mr. McLURE. Yes.

Mr. MINETA. Now, we have heard sometimes from FAA that they are able to get along now with fewer controllers than at the time of the strike because at the time of the strike there were too many controllers. Do you have any basis for deciding whether in fact there were too many controllers at the time of the strike, either nationwide or specifically at the six facilities serving northern New Jersey?

Mr. McLURE. What we used as our criteria in the study we did was FAA's own criteria for their own goals for how many controllers they felt were needed. They haven't reached their own goals, particularly for full performance level controllers throughout the country.

We don't have any basis other than FAA's own goals for judging whether there were too many controllers in total before the strike.

Mr. MINETA. One argument that might be made against your questionnaire is that good controllers are perfectionists and will inevitably have a tendency to believe that they are overworked. And I am wondering did you consider that as part of the questionnaire?

Mr. McLURE. That is why we did all the work with FAA's own statistics, their own payroll records about how much people actually were working and how many people they had. And we tried to use the questionnaire only to buttress what we had already learned from FAA's own numbers. We think that the questionnaire basically reaffirms what you can see just by analyzing FAA's own data.

Mr. MINETA. Another argument that might be raised against your study is that the proof is in the pudding, and that since the strike there have been very few accidents attributable to deficiencies in the air traffic control system. Does this suggest to you that controller staffing is adequate?

Mr. McLURE. It suggests several things. One is that the measure that we use isn't the best for determining how well the system actually is working and how safe it is. That is, there are a lot of people who are trying to avoid accidents, and the controllers aren't the only ones that are part of that system. However, about the only measure that is out there is how many accidents you have, and certainly there haven't been very many. It is very safe to fly on an average.

So, what do you use as a measure when what you are trying to do is avoid the possibility of accidents, and we just don't think that FAA has a good measure of that.

Do you want to add anything?

Mr. HUBBS. Yes, and that was with regard to the question of maintaining system safety.

Most of the controllers and the supervisors and managers agreed that as it stands now, the system is safe, but they were concerned about the ability to maintain that level of safety in the future; given the workload that is being thrust on them right now, the overtime that they are working, and the number of FPL controllers especially. And so, I think what we are most concerned with is where they are going to go from here.

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Mr. MINETA. Does that become more a function of the hot spots. For instance, on April 1, United will start with 50 more flights a day out of Washington Dulles, as compared to where we are right now. Do you see that kind of a flexibility on the part of FAA, to be able to shift their resources to these needed hot spots, so to speak, or do you find that they are sort of frozen and not able to be flexible enough to meet these needs?

Mr. MCLURE. There are hot spots, and they are frozen in a sense, but frozen isn't quite the right word. They can't build themselves up very rapidly, as we have seen. And in addition, it is difficult to move the people around partly because if you move them from one place to a hot spot, you make a hot spot out of the place you moved them from.

Joe, did you want to add something?

Mr. MCGRAIL. Yes.

FAA's approach to staff the centers which are in a most critical need of full performance level staffing is through a voluntary program. They have not opted to automatically transfer people where they really need them. And in the New York area, the New York Center, one of the seven centers that is in serious trouble, only 30 people opted to apply for a transfer there, and there is no certainty of those 30, if they make it, how many will actually make it through the training program at the Center. You could have some washouts of those people, so it is really not certain how many new FPL's at the New York Center will even net out of that effort.

I think overall FAA is adding about one full performance level controller per month to every center in the United States, that is the slowness of that pace.

Mr. MINETA. Let me ask you about that, Mr. McGrail.

If a person is a full performance level controller, let's say at the Washington Center in Leesburg, and he gets ordered to the New York Center, is that person considered an FPL in New York?

Mr. MCGRAIL. That person must check out on the positions at the New York Center. The fact that he is an FPL already, however, means he has demonstrated the aptitude to work the radar positions. But he is not automatically put on.

Mr. MINETA. So, would the qualifying period be relatively short maybe for that person?

Mr. MCGRAIL. I would think so.

Mr. MINETA. Your study indicates that controllers, supervisors and managers eligible to retire in the next few years plan to do so. Did you happen to ask the controllers the reasons they plan to retire?

Mr. MCLURE. Yes, we did and, of course, the most common reason was their uncertainty about what is going to happen to the Federal Retirement System, and their concern that they better go as quickly as they can or lose benefits that they have worked for.

Mr. MINETA. So, the tax provisions and the H.R. 3838 are driving some of those decisions?

Mr. MCLURE. Well, let's just say they concern the controllers.

Mr. MINETA. It is not only controllers, but in other positions I have heard people say to me, "Norm, I'm going to lose $15,000, and frankly you are not worth it." They are not willing to sacrifice $15,000 of potential retirement income in service to the Federal

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Government, and they are going to bail out because they know what the provisions are of the new tax provisions and how that will affect their retirement pay.

Mr. MCLURE. That certainly is true in GAO as well. We are losing many skilled people. As soon as they come eligible for retirement, they go, because they are unwilling to take the risk. And certainly the controllers are in the same position.

Mr. MINETA. About how much overtime is the average controller in the New York/New Jersey facilities working?

Mr. MCLURE. We have the exact numbers on that, should we provide them for the record?

Mr. MINETA. I would like to frankly hear that here.

Mr. MCLURE. OK, fine.

Mr. HUBBS. On average, controllers at the New York Center have been working about 9 or 10 hours a pay period of overtime, I believe.

Mr. ROE. Will the gentleman yield on that question, please?

Mr. MINETA. Yes, sir.

Mr. ROE. For the benefit of the record, just for clarification, you speak on averages but then you also speak to a substantial amount of hours in other instances.

How are the controllers compensated—do they get compensatory time, or do they get paid for that?

Mr. HUBBS. They get paid straight time and a half for overtime.

Mr. ROE. They get paid straight time and a half for overtime, and it doesn't get involved in compensatory time?

Mr. HUBBS. No, sir.

Mr. ROE. Is there any election to compensatory time?

Mr. HUBBS. I don't believe there is for the controllers.

Mr. ROE. Thank you, gentlemen.

Mr. HUBBS. On the exact number controllers at New York Center reported to us is that they are working 9½ hours per pay period of overtime.

Did you also ask that question for the Tracon?

Mr. MINETA. Yes.

Mr. HUBBS. For controllers at the Tracon, they are working about 4.7 hours per pay period.

Mr. MINETA. Two weeks?

Mr. HUBBS. Yes, sir, for every 2-week pay period.

Mr. MCLURE. Again, that is an average figure.

Mr. MINETA. Now, is this more overtime than the controllers want to work?

Mr. MCLURE. According to the controllers at the Tracon, about 31 percent of them are working more overtime than they want to. For controllers at the New York Center, 52 percent of them report that the amount of overtime that they are working is more than they would want to.

Mr. MINETA. And in terms of the base of the 31 percent, how many responded?

Mr. HUBBS. That I think is based on €1 or 62 people responding, if you will give me 1 second there, I'll find it. Yes, 62 people.

Mr. MINETA. Sixty-two out of how many people responded?

Mr. HUBBS. Sixty-two is the number of people who did respond, so 31 percent of that would be roughly 20 people.

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Mr. MINETA. Sixty-two is the number of responses that you got, but how many people were actually surveyed or given the questionnaire.

Mr. HUBBS. OK.

At the New York Tracon, we sent questionnaires to 122 controllers, and received answers from 64. And for that particular question, 62 people of those 64 chose to answer it.

Mr. MINETA. And so, this is to establish a valid sample statistically speaking?

Mr. HUBBS. Yes, sir.

What we did by way of background on that point was to send questionnaires to all controllers and all supervisors with radar certification at the 54 busiest terminal facilities, which included the New York Tracon. At the Centers, given the fact that they are larger facilities, we took a statistical sample of the people that fell into those categories at each one of those facilities. In general, that worked out to be about a 45-percent sample of controllers at those facilities and about an 85-percent sample of the supervisors at those facilities.

Mr. MINETA. Thank you.

Mr. Hammerschmidt?

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

Mr. McLure and other gentlemen on the panel, we want to thank you for what is a very comprehensive statement. It doesn't really require many questions, and I think the Chairman has basically covered all the questions that I have down here to ask you.

I was wondering about the special program where you are trying to move people over to Tracon. Was that a voluntary program, or how did that work?

Mr. MCLURE. The Tracon is not included in that program, the center was.

Mr. HAMMERSCHMIDT. I'm sorry, and how did that program work?

Mr. MCLURE. They sent an announcement to the employees and they could submit their names and they had to go through a prescreening exercise first.

Mr. HAMMERSCHMIDT. So, it was a voluntary exercise?

Mr. MCLURE. Yes, sir.

Mr. HAMMERSCHMIDT. Well, I guess this question could be reserved for FAA later, but do you know now if there is a further effort to encourage or mandate that people move?

Mr. MCGRAIL. There is no effort to mandate people to move that we are aware of.

Mr. HAMMERSCHMIDT. Just one other comment.

I notice in the appendix to your prepared statement that you had 111 total controllers at the Tracon, and the number you used of course a moment ago was a more current number of 122, which I suppose reflects those movements that have been made to some degree under the program. But then you say that program didn't apply to Tracon?

Mr. HUBBS. That is correct.

That difference between 122 and 111 probably relates to just normal losses of people, they could have lost some people through retirements or transfers to other facilities, which might include the

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New York Center for example, or trainees who washed out of the training program.

Mr. HAMMERSCHMIDT. This actually reflects a gain rather than a loss—122 used to be 111. You have 111 on Sept. 30, 1985.

Mr. HUBBS. It reflects a loss. When we did the survey, that was back in the spring of 1985, and at that point there were 122 controllers at the New York Tracon. If we are showing 111 people here, it would reflect a net loss of 11 people through various kinds of attrition.

Mr. HAMMERSCHMIDT. I see, that is spring versus the fall.

Mr. HUBBS. Yes, sir.

Mr. HAMMERSCHMIDT. I don't believe I have any other questions. Thank you very much.

Mr. MINETA. Mr. Roe.

Mr. ROE. Thank you, Mr. Chairman.

First of all, I do want to compliment Mr. McLure and his colleagues for a very excellent report. I know they put a great deal of time and effort on this, but a couple of points occur to me.

One is that we say that in spite of the review that has been made, and your observations and your conclusions that most of the controllers seem to think that we've got a good system going and that it is safe or whatever. I would say that the preponderance of them have stated that. And we say one of the tests of that is the acid test of accidents.

Now, on the other hand is it the safety, or have we just been extraordinarily lucky. You know, those two aircraft that crashed could have been two major liners. Basically it was two smaller aircrafts, but the facts still remains that the number of accidents that have taken place, the fatalities in the last year have been higher than in many, many years. Isn't that a reasonable observation to make?

So, it would seem to me that the assumption which puzzles me, and the attesting that the assumption that we are safe or sorry, doesn't really wash. Particularly when you start to look at the observations that are made beyond that, and when you come back and say, No. 1, I believe it is on page one of your testimony: "FAA's planned automatic ATC system, however, will not be made available until at least early 1990's."

So, from the technical enhancement improvement point of view, we have at least a 4- or 5-year wait, assuming that funding is made available and all the other things that go into it. Is that a reasonable assumption to make?

So, there is nothing there that is going to expedite an improvement in the mechanical equipment over the next 3, 4, or 5 years; it will be more like 7 or 8 if we are lucky.

Mr. COTTON. Mr. Roe, one of the other jobs that we are doing is taking a look at what impact the National Airspace System plan will have on controller workload in the interim until they get the entire system.

The point is that their workload will more than likely increase rather than decrease based upon the automation that is coming out. It is putting the controller more into the loop, not out of it.

Mr. ROE. I understand that. In other words, that is the point exactly that I want to make. The fact that they are going to put in

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modernized equipment isn't going to solve the problem as far as numerical numbers of people are concerned is what you are saying. Isn't that true?

Mr. COTTON. Not in the short term.

Mr. ROE. Probably not, but all of that notwithstanding, we don't have any advantage to put into the solution to the problem.

We can all lament the problem, but the issue is what are we going to do about how quickly we get it done. That is what your report said. So, I find that that idea that the measurement, again for reiteration, that we haven't had more people killed although it is on the increase, is because we have been damn lucky from my point of view.

The second point is one comes back and says we won't have the modernization of equipment at least until 1990, and then we come back and say in part of your report in the major findings issue, you made the observation, which was a very, very adroit one. You said on page 12 in your conclusions:

> At the time when air traffic activity is up by over 18 per cent, the total number of controllers serving northern New Jersey was reduced by over 40 percent, and the number of FPL's by 44 percent.

So, in effect we are saying that in fact what has happened as far as northern New Jersey is concerned, you have an enormous growth that is taking place, particularly in Newark and La Guardia, and also in Teterboro. And over that same period of time, the percentage number of people that would be used as controllers has dropped considerably, and the volume of traffic has increased by 50 percent or more. So, we are begging an issue there, are we not?

In other words, it is just like a time bomb which ticks away as it goes along. I may be overdramatizing, but it seems to me that that gap is going to widen, and widen, and widen, unless we do something about filling in additional controllers.

And for another point, I just want to make a statement of fact because that is what it is according to your statement.

Mr. MCLURE. I wouldn't use the word, time bomb, but I think you've got it right.

Mr. ROE. Well, when we have a situation like the accident that took place in Bergen County, as severe as it was and one person killed on the ground, had that been two major airlines in the area which are expanding all the time in the region, then the results would have been different, and the attitude would have been different too by the way.

If there were 400 or 500 people that had been killed and all this material laying down upon this county and killed more people, yes, I am being dramatic, but it is there. The fact that that accident took place with two smaller aircraft unto itself is just a bit of luck that it didn't happen in a larger capacity.

Then we are saying that over the foreseeable future there is going to be an exacerbation and an increase in effect of flights, and this is according to your testimony. We still don't know how many people will be added, and we are worried about retirement. I agree by the way, I voted against that section myself. I think it is atrocious to have people retire from Government that are desperately

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needed based on a nitpicking point about retirement that was in that tax bill. I think that is a grave mistake in the country.

Having said that, however, we are faced with that situation which is going to drain additional personnel, both controllers and supervisors. Then we are coming back and somebody says yes but in the magic of the budget we just saw, they are going to add 1,000 more controllers, or provide the funding for it. And you say that is fine, but you can't train them in that period of time, number one. And, therefore, you can add 2,000. It wouldn't make any difference, unless we can get back, as was stated in earlier testimony, in to train people who have training before. Is that a reasonable point to make?

I mean, our pool of people who have at least some modicum of training without having to start from point zero, are those people that got fired during the PATCO issue. Isn't that a reasonable point to make?

Mr. McLURE. They are a pool of trained people, and we don't know how long it would take to retrain them.

Mr. ROE. I am not asking that, but it seems to me that if I know how to drive a car, I am not going to forget that overnight. Even if I have to learn one with a stickshift, I mean that seems only reasonable.

Mr. McGRAIL. On that point, sir, we asked the facility managers why the attrition rates were so high, and one of the predominant reasons they came back with was that the new controllers lack the aptitude to be controllers.

Mr. ROE. Good point.

I don't want to belabor this. I just want to make one final point, if I may. It seems to me that the fact that we are putting or recommending 1,000 new controllers, we don't say specifically where they be located. I mean, 1,000 sounds like a lot of personnel, but when you spread it over the country it is nothing. Relatively speaking, I think you said it is one per district as I understood it.

Mr. McLURE. That is about how fast they are adding people now, yes.

Mr. ROE. So, from your point of view, and from your expertise, and from what you have done in your overview, would you express serious concern as we look at the specific 18-percent reduction and 40-percent increase, this great expansion that is taking place in the northeastern region with the lack of personnel and the lack of projection of added personnel and equipment.

Could you safely say from your point of view that you would express considerable concern on this?

Mr. McLURE. Yes.

Mr. ROE. So, therefore, if I may, Mr. Chairman, let me conclude on this point.

What we are simply saying is there is nothing before in the testimony that has been presented so far today that gives us any hope for extensive increased safety at this point. And if anything, from your report, which has been very well done, the grave concerns continue to exacerbate themselves at this point as far as air traffic in this region.

Is that a fair comment to make?

Mr. McLURE. I think that is a fair statement.

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Mr. ROE. Thank you, Mr. Chairman.

Mr. MINETA. If my colleague would yield for a comment; that is on the assumption that nothing is done. Usually what happens is that given the capacity of the air traffic control system to only handle so much traffic, what they will do is to hold planes on the ground. So, when you sit on the ground for 1 or 2 hours, you can't blame the airline and you can't blame the pilot. It is just that they are not going to let that plane get into the system because they are not going to be able to handle it. That is what we are going to be facing with Gramm-Rudman-Hollings.

We had the summer of 1984 and the problem of tremendous delays in 1984, and it looks as if the summer of 1986 could be a real problem.

Mr. ROE. I appreciate your bringing that up, because I know flying back and forth from Washington now, particularly on a Thursday or a Friday, to get into New York Air, you sit for 4 and 5 hours at a clip in that airport. I am sorry, New York Air, if you are here, that is the way it is.

Mr. MINETA. But not People Express, of course.

Mr. ROE. People Express is the people's airline.

What I am trying to say is if we are opening up the dimension to increase the opportunity for more people to fly, and we are not spending the money to provide the equipment and providing the controllers we should be providing, we are losing it on the ground because we can't handle that number of aircraft.

Is that reasonable?

Mr. COTTON. Mr. Roe, one thing that you have to realize is that you can't blame the airline or the airport.

Mr. ROE. I am not blaming anybody, except the Congress at this point.

Mr. COTTON. OK, because the problem is in the air and not on the ground. It is once they get into the en route environment and the ability of en route centers, and Tracon in this case too, to handle workload.

Mr. ROE. The question was asked from the technical point of the gentleman here earlier, and the question was asked is there some particular point where we could come back and say when we talk about expansion of the airports in the area, that they can't expand anymore?

It is not the physical attributes of the airport per se that is the issue, it is how do we control the aircraft in the air at a given period of time. That seems to be the axiomatic.

Mr. COTTON. It is the failure of FAA to increase the capacity in the ATC system at the same rate that the capacity is being increased on the ground.

Mr. ROE. Therefore, it seems to me that you could easily take the data that you have now, and you could put that together in a composite and say in a time certain this is what would happen in the known technology. If we had an adequate number of controllers, you could pinpoint the number of flights that would be safe to fly in that region in a reasonable ground time involved.

Is that a reasonable point to make?

Mr. COTTON. In that en route center, yes.

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Mr. ROE. That could be done. So, therefore, we could project down the road right now in the next 3 or 4 years until these other things come online what is going to be safe, basically speaking flying in the air at the same time, and how much loss time there would be on the ground.

We could project that. Couldn't we do that?

Mr. COTTON. You could. It would be an estimate.

Mr. ROE. It wouldn't be perfect, but it would be an estimate.

Mr. COTTON. It would be an estimate.

Mr. ROE. But at least it would give us some sense of what the safety issue is and as it is growing.

Is that unreasonable to say?

Mr. MCLURE. In a sense, FAA does that now.

They have standards for working traffic for controllers, and those standards basically concern how much traffic controllers should have, how much space there should be between the airplanes, and that sort of thing. So, the standards are out there, and if you use those standards and multiply them by the traffic, you can see what the system will hold.

But, recognize that standards can be changed too. And if you have better equipment and better controllers, it could be that you can change your standards in order to permit more traffic.

Mr. ROE. I am taking much more time than I should be taking, but the fact still remains that after all of your testimony the preponderance of the evidence from the controllers and the people that are running the system, they themselves are the ones who have given you the background statistics and are saying to you, "We are desparately concerned because of this situation, and this situation, and this situation."

So, FAA is not doing their job is what I am trying to get at. You don't have to answer that.

Mr. HAMMERSCHMIDT. Will the gentleman yield?

Mr. ROE. Yes, I better shut up for a while.

Mr. HAMMERSCHMIDT. No, I just want to continue to make the point that we are talking about funding, not management, but funding. Gramm-Rudman aside, if we spent the $4½ billion in the trust fund, we could do a great amount toward improving the air traffic control system. I just want to make that point once again.

Mr. MCLURE. You will be interested to know that within the next month or so, we will issue a report on the trust fund and its present condition, and how much money will be in it over the coming half-decade. And what the possible uses and arrangements for using that money are. You will see that there is a wide range of possibilities in there.

Mr. HAMMERSCHMIDT. If the gentleman will yield further, I am delighted to hear you say that, because we do need to lay some statistical, knowledgeable, and professional ground work. We are showing what can be done as we fight to get that trust fund out of the unified budget.

Thank you, sir.

Mr. ROE. I am finished.

Mr. MINETA. Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman.

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Can you tell for me what the current numbers are of controllers operating at the Teterboro facility, and how that would compare with 4 or 5 years ago?

Mr. HUBBS. Just before the strike, sir, there were 14 controllers at Teterboro.

Mr. TORRICELLI. Before the strike there were 14, and how many are we operating with now?

Mr. HUBBS. Now there are 16.

Mr. TORRICELLI. There are now 16 controllers.

And could you compare that with the volume increases of the airport?

Mr. HUBBS. Actually, there has been a bit of a decrease at Teterboro. If you look at the first 6 months of 1981, just before the strike, with the first 6 months of 1985, which was a comparable period, their airport operations have gone down by about 10 percent. There was a pretty significant decrease immediately after the strike. And since then, it has begun to climb back up a bit, but it is still at a level somewhat below the immediate pre-strike period.

Mr. TORRICELLI. And what kind of overtime are the 16 people working?

Mr. HUBBS. We don't have that information for Teterboro, sir. We had not included Teterboro in our original survey of controllers, nor gotten that kind of information out of FAA's data base.

Mr. TORRICELLI. Are you aware of what the plans are for dealing with Teterboro and the number of controllers looking prospectively?

Mr. HUBBS. No, sir, we are not.

Mr. TORRICELLI. When you surveyed the controllers and their feelings about the safety levels of performance, did you factor the age of the equipment into the equation?

Mr. HUBBS. Yes; we did.

We asked them two questions about the reliability of the hardware of the computers and the software, the programs that drive the computers, and this is across the board not just at the five New York facilities. But, across the board, perhaps maybe 25 percent or so of the controllers felt that either or both of those two factors had some kind of a negative impact on air traffic safety.

Mr. TORRICELLI. Twenty-five percent felt that equipment was a factor?

Mr. HUBBS. Yes, sir.

Mr. TORRICELLI. You don't have that broken down by airport as to the general area?

Mr. HUBBS. No, sir, not yet.

Mr. TORRICELLI. Do you know the age of the equipment at Teterboro?

Mr. HUBBS. No, we do not.

Mr. TORRICELLI. Having now conducted this study, philosophically are you of the belief that there is an identifiable saturation point in the New York/New Jersey metropolitan area?

Mr. MCLURE. Given the current number of controllers and the current equipment that they have.

Mr. TORRICELLI. Given the realities of the current numbers of controllers, and what is anticipated, and the current technology that either is obtained or is in the process of being obtained, is

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there a number that can be identified that is a saturation point for maintaining current or increased levels of safety?

Mr. McLURE. There is an estimate. You could come up with a number, but it would be based on your assumption about what standards the controllers should work to—whether they should let one plane a minute land, or two, and so forth.

So, yes, you can come up with a number, and FAA can certainly do that.

Mr. TORRICELLI. But you have not reached such an estimate in your own survey?

Mr. HUBBS. No, sir.

That was not part of the objectives of what we were after. About the only thing that we would have that gets at the kind of information you are seeking is possibly the questions that deal with whether controllers believe they are working too much traffic or an appropriate level of traffic during peak periods of their shift. And in the case of the facilities here in the New York area, roughly 77 percent of the controllers believe they are working more traffic than they should during that time period.

Mr. TORRICELLI. So, given the technologies and the number of trainings, it is fair to conclude then that a number in that range must believe that we have passed a saturation point as such?

Mr. HUBBS. Yes, sir, as far as their ability to manage the workload that is thrust upon them at any given point in time.

Mr. HAMMERSCHMIDT. Will the gentleman yield on that point?

Mr. TORRICELLI. Certainly.

Mr. HAMMERSCHMIDT. I was just reading from your earlier testimony that says over 90 percent of the controllers at the five facilities believe that their workload is too high, selected inadequate flow control procedures and airline schedules as the top two reasons.

That is really out of their control, isn't it?

Mr. HUBBS. Yes, sir.

Mr. HAMMERSCHMIDT. Thank you.

Mr. TORRICELLI. Looking at the technology that is available to be purchased, do you see it significantly impacting the requirements for the amount of personnel that is required. Does this technology provide marginal improvements, or is it of such a scale that you can anticipate 16 controllers in the future at Teterboro, for example, being adequate, even though there may be a dramatic increase in the usage of the airport?

Mr. HUBBS. It isn't something that we looked at specifically, but in FAA's National Airspace System plan they have estimated given the gains in productivity that they believe will come with the automated air traffic control system of the future, that a controller would be handling I believe it is about twice the number of aircraft that they can handle now.

Mr. TORRICELLI. With their new generation of technology they will be able to handle that load?

Mr. HUBBS. Yes, sir.

Mr. TORRICELLI. I have no further questions, Mr. Chairman.

Mr. Chairman, Ms. Roukema having departed, I want you to know that I will continue to defend Gramm-Rudman in her absence.

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Mr. MINETA. Well, Mr. McLure, Mr. McGrail, Mr. Hubbs, and Mr. Cotton, thank you very much for this fine testimony. And I am looking forward to those recommendations and the other piece of this report that you are compiling.

Again, thank you very much.

[Mr. McLure's prepared statement follows:]

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 10:00 A.M.
MONDAY, MARCH 3, 1986

STATEMENT OF

HERBERT R. McLURE, ASSOCIATE DIRECTOR

RESOURCES, COMMUNITY, AND

ECONOMIC DEVELOPMENT DIVISION

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

HOUSE COMMITTEE ON PUBLIC WORKS

AND TRANSPORTATION

ON

CONDITIONS WITHIN THE AIR TRAFFIC CONTROL WORK FORCE AT SIX FAA FACILITIES

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Mr. Chairman and Members of the Subcommittee:

We appreciate this opportunity to comment on conditions within the controller work force at the Federal Aviation Administration's (FAA's) six air traffic control (ATC) facilities serving northern New Jersey.[1]

Air traffic in this area has now reached record levels and is expected to continue to grow. The first major labor-saving features of FAA's planned automated ATC system, however, will not be available until at least the early 1990s. This, coupled with questions about FAA's progress in rebuilding the controller work force after the strike over 4 years ago have caused growing concern in the Congress over the safety of our national airspace system.

Because of this concern, we spent the past year collecting and analyzing information on various aspects of the working environment in the 74 busiest ATC facilities in the continental United States,[2] including five of the six ATC facilities serving northern New Jersey. While the Teterboro terminal was not included in our survey, we have collected and analyzed staffing and air traffic activity data for this facility as well. As agreed, our testimony today will cover in detail the size and

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[1]The six facilities are the Teterboro and Newark, N.J., and the John F. Kennedy and LaGuardia, N.Y., airport traffic control terminals; the New York terminal radar approach control facility (New York TRACON); and the New York air route traffic control center (New York Center).

[2]Our survey included the 20 air route traffic control centers (hereafter referred to as centers) and the 54 busiest terminal facilities in the continental United States. Although there are 448 ATC facilities operated by FAA, 63 percent of the controllers are employed and 80 percent of radar operations are controlled at these 74 facilities.

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composition of the controller work force as well as controller work load and overtime for these facilities. We will also present some background information on each of these topics.

There were two principal sources for the information we collected and analyzed. One source was data on staffing, overtime, and air traffic activity from FAA's payroll, personnel, and other systems for the period from July 1981 through September 1985. The other source was an extensive questionnaire survey of some 4,500 radar qualified controllers, 1,000 first-line supervisors, and the managers of the 74 ATC facilities. Overall, 75 percent of those we surveyed responded and we have used the questionnaire results to underscore conditions apparent in FAA's data. Various appendices are also attached to our statement to illustrate the information we obtained from FAA's data systems.

MAJOR FINDINGS

Our work at the six facilities of interest has shown that:

--FAA does not have as many fully qualified, experienced controllers at some of these facilities as managers, supervisors, and controllers believe are needed and as are called for by FAA's goals, and this problem cannot be resolved in the short term. In addition FAA could lose more supervisors and controllers through retirement than it expects.

--Air traffic activity is at the point where controllers and their supervisors believe they are overworked during peak traffic periods.

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--Controllers report working at a radar position during peak periods without a break or change of position for more time than they believe they should have to and than is called for by FAA's policy.

--Overtime is likely to remain high at the New York Center and TRACON and controllers and supervisors feel the overtime being worked is negatively affecting controllers' ability to perform their duties.

In their responses to our questionnaire, supervisors confirmed that each of these conditions negatively impacts the maintenance of ATC system safety.

Before continuing, I want to point out that most of the controllers, supervisors, and managers who responded to our questionnaires rated the overall safety of the ATC system as adequate to excellent. But supervisors and controllers also identified concerns about their ability to maintain a safe system.

I will now present the specifics on each of our findings.

SIZE AND COMPOSITION OF THE CONTROLLER WORK FORCE

Today the ATC system is being operated with fewer controllers overall, and far fewer full performance level (FPL)[3] controllers than before the August 1981 strike.

At the time of the 1981 strike, FAA believed that the 16,200 controllers it had were more than it needed. Since then, FAA has

[3]A full performance level controller is one who is fully certified to operate all positions in a defined area.

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set out to rebuild the work force with several thousand fewer controllers. For fiscal years 1984 and 1985, FAA said its goal for controllers was about 12,500 as part of a total work force goal of about 14,300.

As of September 30, 1985, FAA had about 12,500 controllers. The smaller work force, however, has impacted staffing at certain facilities much more than others. For example, FAA has rebuilt the controller work force at the four airport terminals serving northern New Jersey to about their pre-strike level; yet, there are 48 percent fewer controllers at the New York Center and 38 percent fewer controllers at the New York TRACON than before the strike.

The composition of the controller work force is also far different than it was before the strike. As of July 31, 1981, FAA had 13,200 FPLs who made up over 80 percent of the work force. Only about 3,400 FPLs remained after the strike and as of September 30, 1985, there were about 8,300 FPLs comprising about 66 percent of a much smaller work force. In addition, FAA had about 4,200 developmental controllers[4] and 1,500 air traffic assistants,[5] a new position established since the strike.

At the six FAA facilities serving northern New Jersey there were 562 FPLs before the strike and as of September 30, 1985, there were 314 or 44 percent fewer. The change in the number of

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[4]A developmental controller is one who is undergoing training.

[5]Air traffic assistants are not trained to and do not control air traffic. They perform less skilled tasks of mainly a clerical nature.

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FPLs ranged from a 14 percent increase (2 FPLs) at the Teterboro airport terminal, a less complex nonradar facility, to a 54 percent decrease (186 FPLs) at the New York Center.

FAA's FPL staffing goal

FAA has established an FPL staffing goal of 75 percent[6] at all ATC facilities. FAA had achieved its FPL staffing goal at the New York TRACON (78 percent) and the Teterboro terminal (100 percent), and was approaching its goal at the Kennedy terminal (72 percent), as of September 30, 1985. However, only about 60 percent of the controllers were FPLs at the New York Center (59 percent) and the Newark (61 percent) and LaGuardia (62 percent) terminals. Moreover, one must remember that the percent of FPLs at the New York Center and New York TRACON are based on a much smaller work force than before the strike.

Perspectives of controllers, supervisors, and managers on staffing adequacy

We asked controllers, supervisors, and facility managers at the five ATC facilities serving northern New Jersey that were included in our survey their opinions on staffing. Ninety-four (94) percent of the controllers and 91 percent of the supervisors said they believe there are fewer FPLs than are needed. Three of the five facility managers agreed and also said that their authorized controller staffing levels are not adequate.

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[6]DOT informed the Office of Personnel Management, in a May 1985 request for a continuance of a waiver of time-in-grade requirements for controller promotions, that it was essential to have at least 75 percent of the controllers at a facility as FPLs. We, therefore, have used that as FAA's goal for FPL controller staffing.

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We also asked the supervisors and managers their opinion about how much positive or negative impact several factors, including the number of FPLs available, were having on maintaining safety. Sixty-five (65) percent of the supervisors said the lack of FPLs was having a negative impact, and one of the five facility managers who answered the same question had the same opinion.

Obstacles to rebuilding the controller work force

FAA faces difficult obstacles in building towards its FPL staffing goal. First, it takes time for a controller to acquire the training and experience to qualify as an FPL. Second, training attrition has averaged about 50 percent. And third, many of the experienced FPLs and supervisors have retired or are approaching retirement. These add up to a long term controller staffing problem.

Before the strike, it took an average of 4 to 5 years to quality as an FPL. Since the strike, the Office of Personnel Management has waived time-in-grade requirements so that controllers can become FPLs in about half that time. Even so, in the 4 years since the strike, FAA has replaced only 57 of the 243 FPLs it lost from the New York Center and 68 of the 105 FPLs it lost at the New York TRACON.

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Regarding training attrition (failures and withdrawals), only 58 percent of those hired since the strike have been able to pass the FAA Academy training requirements. And on the basis of facility managers' estimates, the facility attrition rate for those who graduate from the Academy has averaged 59 percent at the New York Center and 17 percent at the New York TRACON. The attrition rate at the terminals included in our survey has been minimal according to the facility managers.

Finally, our survey suggests many more controllers will retire in the next few years than FAA is planning for. FAA projects the number of retirements on the basis of its historical experience of 14 percent of those eligible to retire. Our survey, however, indicated that 78 percent of the 26 controllers and 83 percent of the 44 supervisors at the five facilities who are eligible to retire then or within 2 years would retire when eligible.

Certain facilities serving northern New Jersey could be especially hard hit by retirements. For example, 26 of the 44 supervisors at the New York Center are already eligible to retire, and our survey indicated that 21 of them definitely or probably will retire within the next 2 years. If replacements for the retired supervisors have to come from the ranks of the Center's FPL controllers, then the controller staffing situation at the Center will worsen.

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FAA is trying to improve FPL staffing through a special program to encourage transfers into the New York Center and six other centers where the lack of FPLs is acute. FAA received about 500 offers nationwide to participate in the program as of its cutoff date in December 1985. However, only 30 expressed an interest in transferring to the New York Center.

CONTROLLER WORK LOAD

Controller work load is affected by the number and type of aircraft they are handling at any one time, the complexity of what they have to do, and the amount of time they spend at a control position during their shift. Immediately following the strike, FAA imposed special restrictions that reduced air traffic activity by about 20 percent because of the severe shortage of controllers. As FAA hired and trained more controllers, it lifted the last of the restrictions in December 1983, with the exception of flow control[7] which has been used in some form since 1970.

Air traffic has grown substantially in the northern New Jersey area on the basis of a comparison of activity during the first 6 months in 1981 to the same 6 months in 1985. At the six facilities of interest, traffic increased by over 18 percent, including a 54 percent increase at the Newark terminal. Since the first major labor-saving features of FAA's planned automated air traffic control system will not be available until at least the early 1990s, controller work load at these facilities will likely continue to be a concern for some time.

[7]This is FAA's centrally managed national program designed to control aircraft departures and enroute flows based on weather conditions and capacity at arrival airports.

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Our survey showed that 77 percent of the controllers at the five facilities who work radar believe they are required to handle more traffic during daily peak periods than they should be handling. Their supervisors said that 181 of the 437 controllers under their supervision are required to handle too much traffic. The five facility managers, on the other hand, disagreed with both the controllers and supervisors stating that only 4 (or 1 percent) of the radar controllers are required to handle more traffic than the managers feel is appropriate.

Over 90 percent of the controllers at the five facilities who believe that their work load is too high selected inadequate flow control procedures and airline schedules as the top two reasons. Over 90 percent of the supervisors who said controllers under their supervision are required to handle too much traffic also selected these reasons.

Over 70 percent of the controllers selected the shortage of radar controllers and the configuration of air traffic sectors[8] as reasons why their work load is too high, and 63 percent of their supervisors agreed. Moreover, 43 percent of the supervisors were dissatisfied with the amount of say they had configuring their sectors.

Another significant work load issue is the amount of time a controller must spend on position. FAA's policy is that controllers should not work more than 2 hours at a radar position

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[8]A sector is a designated section of airspace within which a controller has responsibility and authority for the separation of aircraft.

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without a break or change of position. Sixty-nine (69) percent of the controllers at the five facilities reported working continuously for 2 hours or more at a radar position during peak periods. About two-thirds said they are working too long without a break during peak periods, and more than 55 percent of their supervisors agreed.

On average, those supervisors themselves spend almost 40 percent of their time working traffic, and over 60 percent of them believe this hinders their ability to carry out their supervisory responsibilities.

With regard to our question about the impact certain factors have on maintaining ATC system safety, over 80 percent of the supervisors believed that the amount of traffic work load is having a negative impact. We also asked controllers about two additional air traffic control services[9] which can have a bearing on safety and which they provide pilots when they have time--responding to pilots' requests for traffic advisories and weather advisories. Even though a third of the controllers said they seldom, if ever, decline requests for traffic advisories, another third said they often do. Over 40 percent said they seldom, if ever, decline weather advisory requests, but one in four said they often do.

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[9]Air traffic control additional services include various advisories that are provided to the extent possible contingent only upon the controllers capacity to fit them into the performance of higher priority duties and on the basis of the limitations of the radar, volume of traffic, radio frequency congestion, and controller work load. The controller has complete discretion in regards to providing these services.

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THE USE OF OVERTIME TO OPERATE THE ATC SYSTEM

FAA is heavily dependent on overtime to operate the ATC system, particularly at centers. Controllers at the New York Center worked over 60,000 hours and 54,000 hours of overtime during fiscal years 1984 and 1985, respectively, placing it in the top three centers for overtime hours worked both years. Similarly, controllers at the New York TRACON worked over 12,000 hours of overtime in each of the 2 fiscal years, ranking it second for overtime hours worked among the 54 busiest terminal facilities in the United States. Most of the overtime at the two New York facilities is built into the work schedule, and between 58 percent and 72 percent of the supervisors and controllers said they are expected or required to work overtime.

Effects on controllers

Fifty-two (52) percent of the controllers and 54 percent of the supervisors at the New York Center said they are working more overtime than they wanted. At the New York TRACON, 31 percent of the controllers said they are working more overtime than they wanted, and 28 percent of the supervisors agreed.

Of the controllers who said they are working more overtime than they wanted, the overwhelming majority also said overtime was having a negative impact on their overall ability to perform their duties. With regard to our question about maintaining system safety, 68 percent of the Center supervisors and 28 percent of the TRACON supervisors believed that the amount of overtime is having a negative impact.

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CONCLUSIONS

Let me conclude by recapping the most essential points in my testimony.

At a time when air traffic activity increased by over 18 percent, the total number of controllers serving northern New Jersey was reduced by over 40 percent and the number of FPL's by 44 percent, without the benefit of planned labor-saving automation. We believe that the impacts of this situation are clearly reflected in the survey responses of controllers and supervisors about the staffing levels, work load, and overtime requirements at their facilities.

On the basis of the expressed concerns about the ability to maintain a safe system, many controllers serving northern New Jersey are being stretched too thin and their ability to continue to maintain the proper margin of safety in the face of expected continued growth in air traffic activity is in doubt. Meanwhile, FAA faces some difficult obstacles to rebuilding the controller work force and FAA's ongoing efforts will have little positive short-term impact on staffing or work load. Within the next several weeks, we plan to propose recommendations to FAA to improve the ATC system. These proposed recommendations and the

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Department of Transportation's response to them will be included in a report to the Chairman of the House Appropriations Subcommittee on Transportation.

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This concludes my testimony Mr. Chairman. I will be pleased to answer any questions that you may have at this time.

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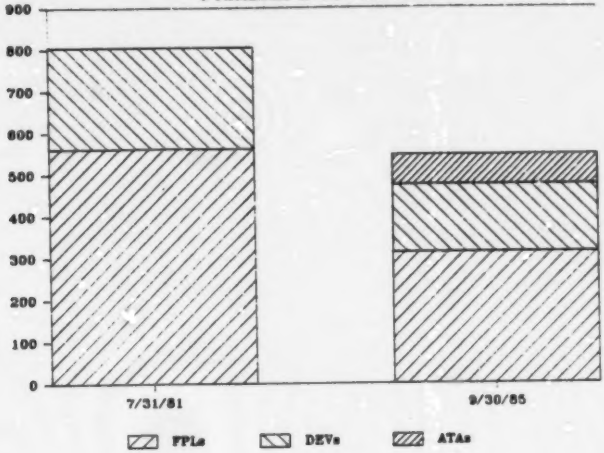
APPENDIX

AIR TRAFFIC CONTROL WORK FORCE

6 FACILITIES IN NEW YORK AREA



Air Traffic Control Work Force:

	7/31/81	9/30/85
Full Performance Level Controllers (FPLs)	562	314
Developmental Controllers (DEVs)	243	162
Air Traffic Assistants (ATAs)	0	72
	805	548

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APPENDIX APPENDIX

RATIO OF FULL PERFORMANCE LEVEL (FPL)
CONTROLLERS TO TOTAL CONTROLLERS AT 6 ATC FACILITIES
SERVING NORTHERN NEW JERSEY ON 7/31/81 AND 9/30/85

	7/31/81			9/30/85		
FACILITIES	FPLs	Total Controllers	FPLs as a Percent of Total	FPLs	Total Controllers	FPLs as a Percent of Total
Kennedy	29	33	88	18	25	72
LaGuardia	30	36	83	18	29	62
Newark	21	28	75	17	28	61
New York Center	344	514	67	158	267	59
New York TRACON	124	180	69	87	111	78
Teterboro	14	14	100	16	16	100
	562	805		314	476	

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APPENDIX

APPENDIX

FULL PERFORMANCE LEVEL (FPL) CONTROLLERS AND SUPERVISORS AT 6 ATC FACILITIES SERVING NORTHERN NEW JERSEY WHO WERE ELIGIBLE TO RETIRE AS OF DECEMBER 31, 1985

FACILITIES	NUMBER OF CONTROLLERS			NUMBER OF FIRST LINE SUPERVISORS		
	On-Board	Eligible	Percent	On-Board	Eligible	Percent
Kennedy	18	0	-	5	1	20
LaGuardia	16	0	-	5	0	-
Newark	21	0	-	7	5	71
New York Center	165	17	10	44	26	59
New York TRACON	88	4	5	26	9	35
Teterboro	13	0	-	2	0	-

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APPENDIX APPENDIX

GROWTH IN AIR TRAFFIC ACTIVITY

Comparison of First and Second
Quarters in 1981 to Same Period in 1985

	Percent Increase (Decrease)
New York Center	14.1
Terminal Facilities	
Newark	54.3
New York TRACON	32.5
Kennedy	6.0
LaGuardia	4.3
Teterboro	(11.3)

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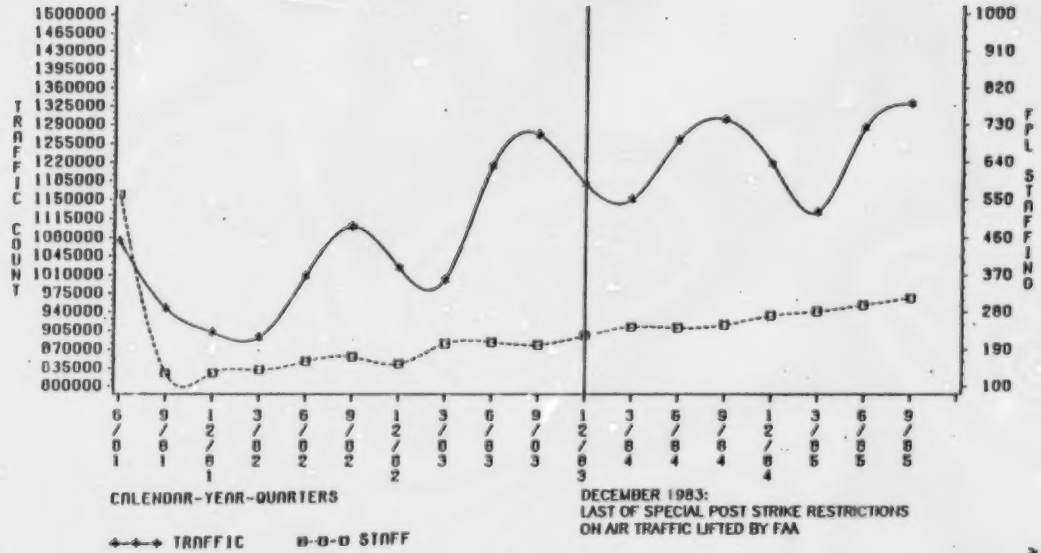
FULL PERFORMANCE LEVEL CONTROLLER STAFFING
AND AIR TRAFFIC ACTIVITY AT SIX
NEW YORK AREA FACILITIES



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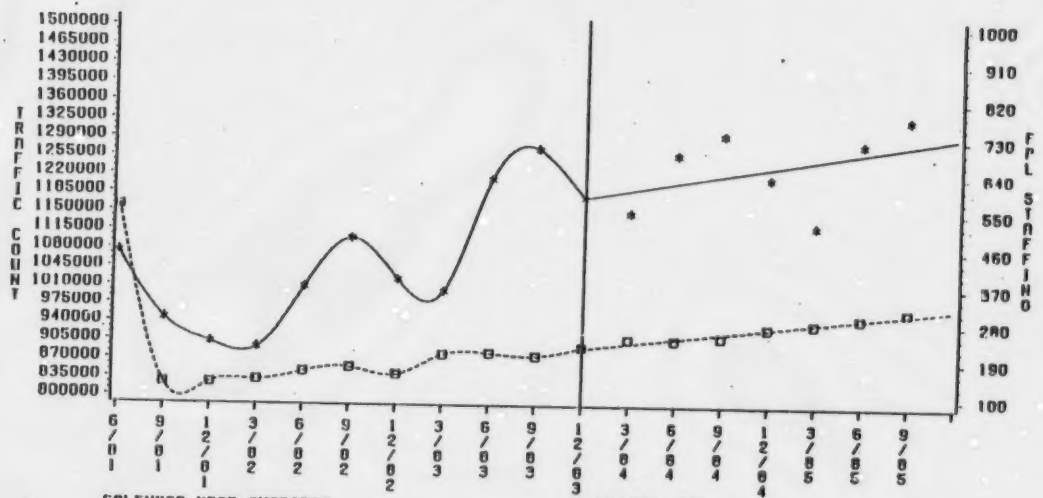
FULL PERFORMANCE LEVEL CONTROLLER STAFFING
AND AIR TRAFFIC ACTIVITY AT SIX
NEW YORK AREA FACILITIES



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Mr. MINETA. I would now like to call Mr. Joseph Del Balzo, the Director of the Eastern Region of the Federal Aviation Administration.

Mr. Del Balzo, your statement will be made a part of the record. So, if you will go ahead and introduce your colleagues and proceed in your own fashion.

TESTIMONY OF JOSEPH DEL BALZO, DIRECTOR, EASTERN REGION, FEDERAL AVIATION ADMINISTRATION, ACCOMPANIED BY JOEL PAPUSH, AIR TRAFFIC STAFF, NEW YORK TRACON, FEDERAL AVIATION ADMINISTRATION; JIM HAIGHT, MANAGER, FLIGHT STANDARDS DIVISION, FEDERAL AVIATION ADMINISTRATION; AND BILL HANDEL

Mr. DEL BALZO. Congressman, thank you very much.

We certainly appreciate the opportunity to appear before the subcommittee today to talk about various issues that concern aviation, and not just in northern New Jersey, but nationwide.

I listened with interest this morning to the discussion, and what I heard were a lot of numbers and a lot of statistics—numbers about the amount of traffic that operated in the system yesterday, traffic today, various projections about traffic tomorrow.

I listened to numbers about controller staffing levels: What we have, and what we had before, what people think we need and what we should have, what people feel about how we should get them, how we should hire them and how we should train them. I heard a lot of things said about possible numbers of retirements and the reasons for those retirements. I heard a lot of things said about our training program.

I heard a lot of numbers, percentages—what people feel is adequate. I must admit that this morning I have never heard so many numbers explained so many different ways, each with its own implied implication. But through it all, I think one point came out to me. And it is a point that I think should not go unnoticed, and it was very clear.

The point to me is that the system is safe today. Members of this committee have said it, Senator Lautenberg said it, GAO said it, our controllers who were interviewed by GAO certainly said it. And I join with them and I say it.

I think it is important to understand why we come to the conclusion that we do about system safety. We come to that conclusion because of a dedicated work force, people who are loyal, committed and more talented than any group of employees that I know of—not just in any Government organization, but in any industry. And I am talking about our air traffic controllers, those who stayed with us and those who we have hired. I am talking about our flight standards inspectors. I am talking about our technicians.

These are the unsung heroes of today's aviation system, 24 hours a day, every day of the week, every week of the month, every month of the year. And it is because of them that we have the finest, the safest air transportation system in the world.

I think the real question that this committee wants to come to grips with, and it is an important one, is not so much is the system safe today—because I sense that we all agree that it is. The real

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question is: Are we doing enough today to insure that we can maintain the same level of safety tomorrow as traffic continues to grow in a deregulated environment?

I believe that the answer is, yes. And I believe that the committee will ask the questions. The questions that have to do with our accelerated training program, questions having to do with additional hiring of air traffic controllers and flight standards inspectors, questions having to do with more automation and better traffic flows, better scheduling to meet demand, our plans to introduce new technology into the system tomorrow.

I think that the committee knows full well the role of this new technology; weather radars, new computers, new landing systems, the introduction of things like the quality assurance patch so that even minor deviations that occur in the system don't go unnoticed. The introduction of a safety hotline, so that if any person, a passenger, a pilot, an air traffic controller, senses that something isn't entirely right, he has access and he has an opportunity to surface that concern and it gets investigated.

And then, finally, there is the intensive series of inspections that we have done throughout the aviation industry. The general aviation segment, the carrier segment, the commuter segment, and the charter segment. You put that all together, and I believe that we have a right to feel that we are on the right course to insure that the system remains as safe tomorrow as it is today.

I won't read the statement that I have prepared. I will insert it for the record to save the committee's time. I think it would be well if I could introduce three people that are with me today.

To my left is Joel Papush. Mr. Papush is on the air traffic staff of the New York Tracon. To my right is Bill Handel. Mr. Handel is representing our airports division in the region. Finally, Jim Haight. Mr. Haight is manager of our flight standards division.

I think it might be helpful to the committee if Mr. Papush would talk about how traffic is managed and controlled in the northern New Jersey area. Walk through the air traffic procedures that are in place today, and then I will be prepared to answer any questions that the committee might have.

Mr. PAPUSH. I would like to discuss the airspace allocation in the northern New Jersey area.

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NAVIGATIONAL AIDS SERVING NORTHERN N.J.

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Mr. PAPUSH. This chart shows the navigational radio aids that serve northern New Jersey airports and their various routes. First of all, the overlying airspace is controlled by New York Center, which controls the airspace over New York, New Jersey, and five other States. They have delegated 14,000 feet and below to the New York Tracon, which operates from Westbury on Long Island. At Newark Airport there has been a further delegation by the New York Tracon within a 6.5-mile radius of Newark Airport below an altitude of 2,000 to the surface. This airspace is controlled by Newark Tower, using the radar system based at their airport.

At Teterboro, Morristown, Essex County, sometimes called Caldwell, controllers control visual flight rules or VFR traffic within a 5-statute-mile radius of the airport below an altitude of 3,000. This chart shows the departure navigational aids marked in blue, which represent the five major departure routes from the northern New Jersey area. There are three major arrival routes, which are shown in red on the chart.

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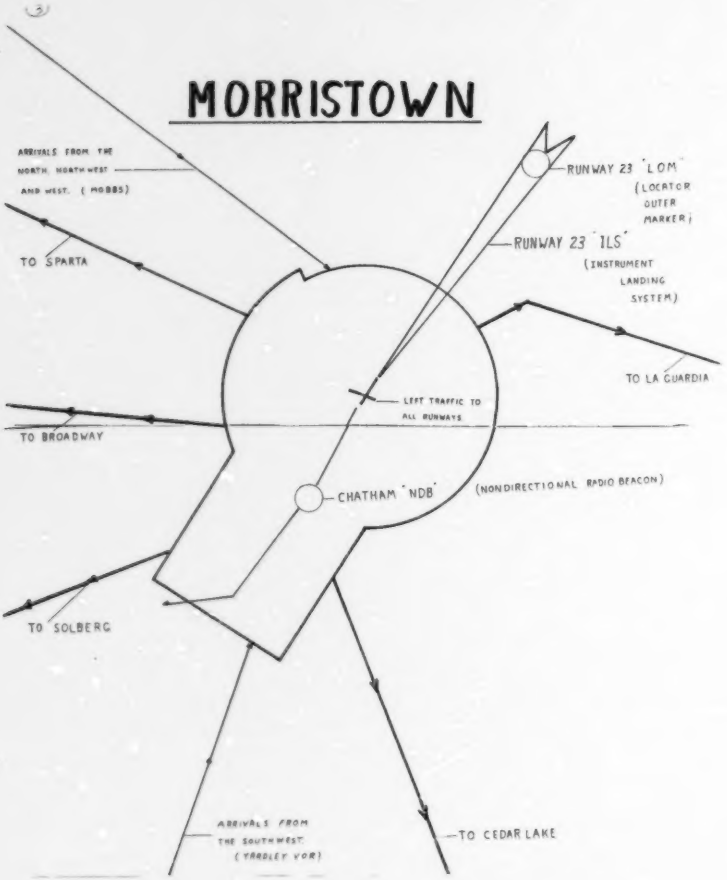
MORRISTOWN
ARRIVALS FROM THE NORTH, NORTH WEST AND WEST. (MOBBS)
TO SPARTA
RUNWAY 23 "LOM" (LOCATOR OUTER MARKER)
RUNWAY 23 "ILS" (INSTRUMENT LANDING SYSTEM)
TO LA GUARDIA
LEFT TRAFFIC TO ALL RUNWAYS
TO BROADWAY
CHATHAM "NDB" (NONDIRECTIONAL RADIO BEACON)
TO SOLBERG
ARRIVALS FROM THE SOUTHWEST (TRADLEY VOR)
TO CEDAR LAKE

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Mr. PAPUSH. This chart shows airspace that is used by the control tower at Morristown. Again, this is roughly a 5-mile circle at Morristown Airport at and below 3,000. The extension you see represents the control zone, which is a protective measure for instrument approaches to the airport. This particular one shows an instrument landing system on the southwest runway at Morristown, and a nondirectional radio beacon for approaches to the north. The blue lines are departure routes; the red lines are major arrival routes.

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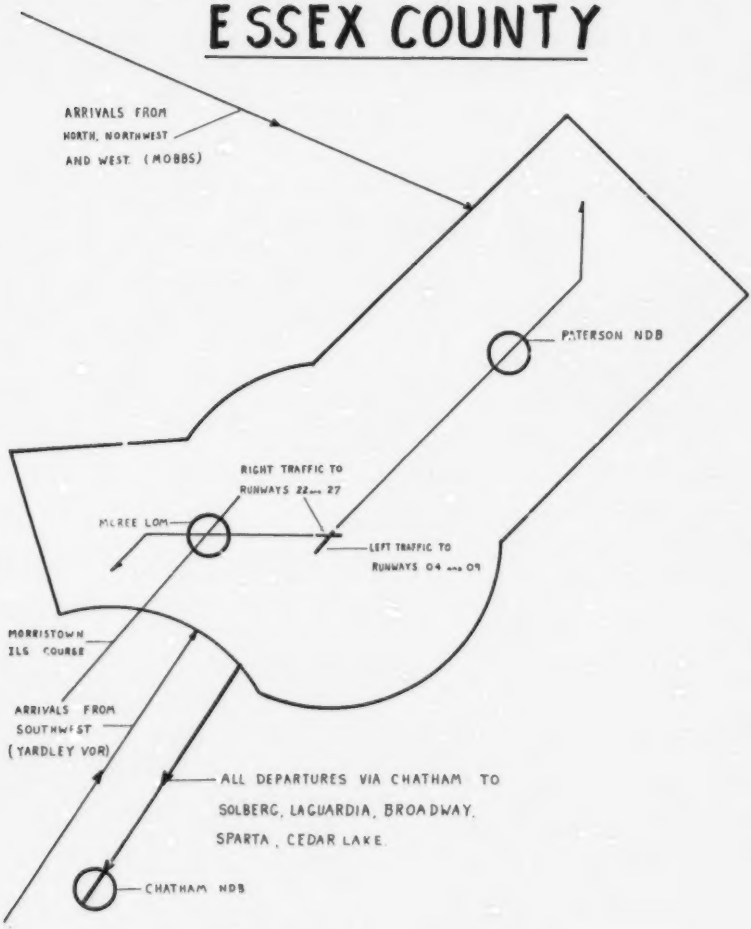
ESSEX COUNTY



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Mr. PAPUSH. At Essex County Airport, their control zone is extended to the northeast and to the west to cover instrument approach courses. The airport traffic area is also a 5-mile radius of the airport. This is their principal navigational aid for arrivals to the airport. This is a secondary one.

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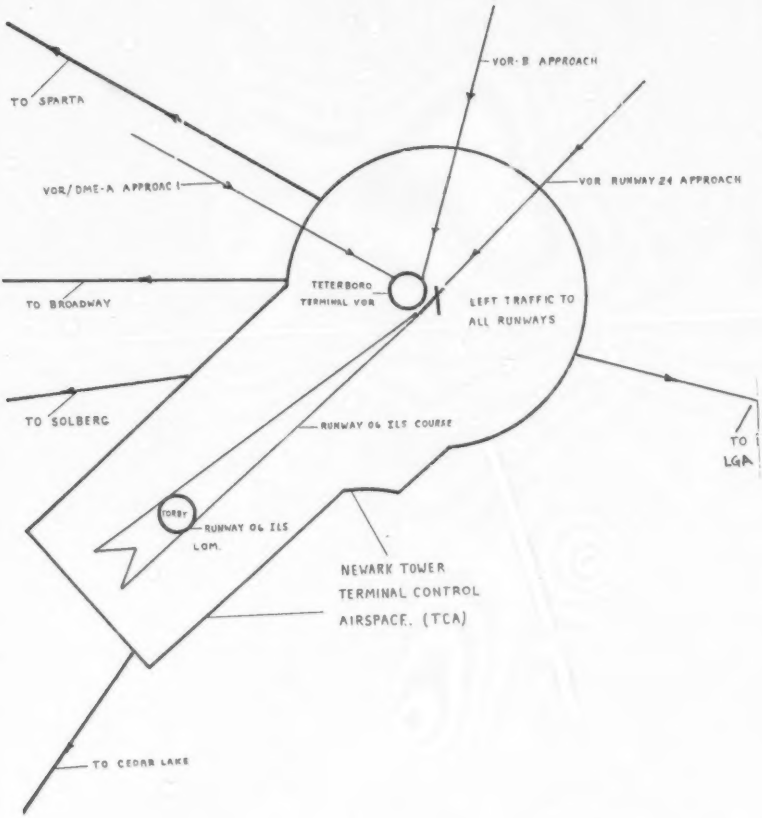
TETERBORO



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Mr. PAPUSH. Teterboro Airport, shown in the center, which by the way is only 10 miles northeast of Newark Airport and only 10 miles northwest of La Guardia Airport, makes this a very complex area. They have an instrument landing system for runway 6, and a nondirectional beacon approach as a backup. They have three VOR approaches shown in red for approaches to the airport, in general, on this course; and specifically runway 19 here, and runway 24 over there.

Mr. HAMMERSCHMIDT. May I ask a question at this point?

Mr. PAPUSH. Certainly.

Mr. HAMMERSCHMIDT. None of these tower controllers have radar that they use to control traffic with.

Is that right?

Mr. PAPUSH. Of these airports so far, that is correct. They do not.

Mr. HAMMERSCHMIDT. And that is intentional, I mean, that is the way that the system is set up?

Mr. PAPUSH. Yes; for this level of activity and this type of a VFR, or visual flight rules control tower, that is correct.

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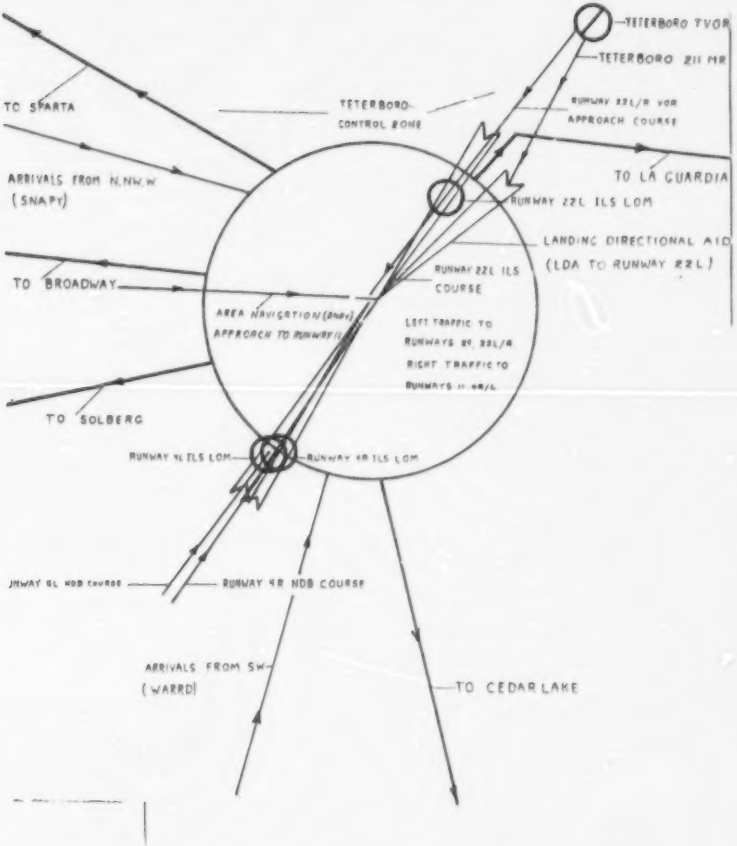
NEWARK



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Mr. PAPUSH. The last chart shows the Newark Airport traffic area. Again, they have a 6½-mile radius of the field, that is below 2,000 feet, where the tower controllers using radarscopes and using computer aids, control traffic in that area to and from the airport.

Principally, all of these airports operate instrument departures immediately contacting the New York Tracon after takeoff. Arrivals, if they are on instrument flight plans, are taken to these approach courses by the New York Tracon controllers and then transferred to tower responsibility approximately 6 to 8 miles from the runway.

In the case of Newark, once the aircraft reaches a 6½-mile point, the tower is responsible for the instrument separation. In the case of the other towers in northern New Jersey, they are operating without radar equipment. The radar controllers in the Tracon are responsible for separation of those flights until they land.

Mr. HAMMERSCHMIDT. On incoming traffic, who is responsible for the handoff, is that just done obviously by verbal communications saying that they have done it?

Mr. PAPUSH. The Tracon is responsible for the handoff. They tell the VFR control tower about 10 minutes in advance of the impending arrival, and then when the flight is approximately 7 or 8 miles from the airport, they call again and tell the tower that such and such aircraft is at this point and he is going to call you now.

The only exception to that is at Newark Airport, because they are using the same radar source that the Tracon controller is and the same automation, they actually can see a small tag next to the target of the aircraft, so they know exactly who is coming. And by letter of agreement, they know just where he is going to call.

Mr. HAMMERSCHMIDT. I guess I am just not quite clear about how that works. The Tracon is responsible for the handoff, and then how do they know it has been made?

Mr. PAPUSH. Well, the Tracon calls on the telephone. We have a direct land line we use. For instance, I will give you an example of let's say an arrival to Morristown.

When the aircraft gets close to the area, approximately 40 miles away from Morristown, we call the tower and say the aircraft, number N46Alpha, will be there in about 10 minutes. Someone in the tower acknowledges that verbally. When that aircraft then is approximately anywhere from 6 to 8 miles from the airport itself and it is on the approach course, we call again and reiterate the position and the aircraft identification. And, of course, the tower controller has a corresponding flight progress strip.

Mr. HAMMERSCHMIDT. Thank you.

Mr. PAPUSH. As far as departures, again, as soon as an instrument departure takes off, usually within a half-mile of the runway, he is transferred to the radar controller at Westbury, NY Tracon. New York also has a terminal control area which overlies Teterboro and extends to the surface at Newark. The New York terminal control area starts at 1,800 feet above Teterboro, and extends upward. So, therefore, Teterboro's Airport traffic area in effect is only applicable below 1,800 above the surface.

Do you have any questions on that?

Mr. DEL BALZO. Mr. Chairman, are there any questions of Mr. Papush.

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Mr. HAMMERSCHMIDT. Let me ask a broad general question.

When you have VFR and IFR flight plans, is that a general problem? I mean, does the system accommodate that very well?

Mr. PAPUSH. In the New York terminal control area, of course, the instrument flight plan aircraft go through this area in and out of all of the airports. If you have an aircraft that comes in under a visual flight plan and wants to land at these airports, they generally call the Tracon controller for a clearance to enter the TCA.

There are certain areas below the TCA where a pilot can operate with or without a radio and without getting instructions or clearance from a ground controller. As far as the general handling of traffic within the TCA, they are offered positive separation from IFR flights and other TCA flights. Again, a TCA flight is a VFR flight getting authorization from the air traffic controller.

There are areas below the TCA and outside of the TCA where a pilot can fly on his own without contact with the ground controller, however, within these airport traffic areas, which are again a 5-mile radius of each of these airports, a pilot under regulation must be in contact with the control tower to enter that zone below 3,000.

Mr. HAMMERSCHMIDT. And it is up to that tower to see and avoid anyway, isn't it?

Mr. PAPUSH. Well, yes, see and avoid is something that the air traffic controller uses in addition to other separation methods.

The overall responsibility for the New York TCA rests with the New York Tracon with the exception of delegated zones that are controlled by Newark, La Guardia, and Kennedy tower. The Tracon controller uses visual separation as one of the ways that he separates aircraft. He points out another aircraft, and when the first one sees that aircraft, he tells him to maintain visual separation from him. As long as he can do this, this is a viable means of separating traffic.

Mr. HAMMERSCHMIDT. I am not trying to arrive at any professional conclusions on a very complex subject. I am just trying to gain an understanding of the system as relating to those questions.

Thank you.

Mr. TORRICELLI. Mr. Chairman.

I would appreciate some understanding if you could explain the differences over northern New Jersey from over areas of New York City, for example, Queens and Brooklyn. What the ceilings might be, the ability to enter that airspace by private aircraft, corporate craft, as opposed to northern New Jersey.

Is it similar in the areas around Newark Airport as it is around La Guardia and Kennedy?

Mr. PAPUSH. Yes, it is.

The terminal control area extends to the surface, and again it is centered on Newark Airport with a 6½-mile radius, LaGuardia with a 6-mile radius, and Kennedy with an 8-mile radius. And these areas overlap at some points.

In New Jersey, the TCA is quite similar to the parts over Manhattan and over Queens. The various floors do vary a little bit.

Mr. TORRICELLI. For example, give me the difference in the floors over Brooklyn and Queens as opposed to over Essex or Bergen County?

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Mr. PAPUSH. There is not a great deal of difference. In some areas the floors are 1,500, and in some areas they go to 1,800 as they do over Teterboro. Then there is another shelf at 3,000 feet. But they are fairly similar north and east of La Guardia. They are not exactly the same. They were developed back in the late 1960's when they first instituted a TCA in New York.

Now, a lot of the determinations had to do with instrument approach courses and activity at the various airports.

Mr. TORRICELLI. And how about the land usage and activity on the grounds below those approaches?

Mr. PAPUSH. I don't know if that was a factor in determining the dimensions of the terminal control areas.

Mr. MINETA. If I might ask, in looking at a map that we have, we have an area of 3,000 to 7,000 feet and then it drops down to 1,800 to 7,000, and then 500 feet to 7,000, and then surface to 7,000. So, I can see the stepdown there.

Why are some of these fingers 500 feet, 800 feet, 1,200 feet variations within each of the stepdown rings?

Mr. PAPUSH. I think they were there to allow aircraft operations without ATC authorization. Certain flights I think are near the Linden Airport. There was a Flushing Airport exclusion. The 800 and 1,200, I think you are looking at Linden, which is southwest of Newark.

Those were determined, I guess, to be areas that would not affect Newark Airport traffic. The basis for the TCA is to protect airliners at busy metropolitan airports with scheduled airlines. And that is why it is centered around Newark, La Guardia, and Kennedy. And they made exclusions in areas where they felt it wouldn't adversely affect the traffic operating at the major airports.

Mr. MINETA. If you look at the map that is in front of you, the area identified over Staten Island, there it shows 500 feet to 7,000. Again, that is within an area that would otherwise be—oh, no, I see. I take that back. So, anyone transiting the TCA, if they stayed below the 500-foot level in that location wouldn't have to be within positive air control?

Mr. PAPUSH. That is correct.

For instance, at Linden Airport, southwest of Newark, a flight in or out of Linden, coming and going to the west or from the west, and operating below those altitudes specified, does not require an air traffic clearance.

Mr. TORRICELLI. Is that the same for Teterboro?

Mr. PAPUSH. That is the same for Teterboro up to the point that it reaches that point 5 miles from Teterboro where he would have to be in contact with the tower to pass through that zone.

Mr. TORRICELLI. Let me just return briefly to my question now that you have this in front of you.

The large area over Queens, Brooklyn, Bronx, northern Manhattan, where it says surface 7,000 feet.

Mr. PAPUSH. Yes.

Mr. TORRICELLI. Now, someone coming upon New York City in a private aircraft, what is the impact of those numbers on that person?

What do you have to do when you are approaching this area in a small aircraft?

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Mr. PAPUSH. Well, what you would have to do is be familiar with these boundaries that mark off the different areas. If you wanted to avoid this TCA completely and overfly, you would have to be above 7,000 feet.

Mr. TORRICELLI. That goes for a radius of 8 nautical miles. Now, similarly, if you were coming out of Newark and you were 8 nautical miles out of Newark over Hackensack, just for a wild example, what would your altitude have to be?

Mr. PAPUSH. I think over Hackensack you would be within that 5-mile radius of Teterboro tower, so you really would have to get a clearance to go through there.

Mr. TORRICELLI. What does the 1,800 to 7,000 mean that is written in that part?

Mr. PAPUSH. What that means is that the TCA applies if your altitude is 1,800 all the way up to 7,000. And you need a clearance, and you have to have certain type of equipment on the aircraft. And, of course, you have to follow air traffic control instructions.

Mr. TORRICELLI. But you can fly in that range?

Mr. PAPUSH. Yes, you can fly in there.

Mr. TORRICELLI. But over Brooklyn, Queens, the Bronx, and northern Manhattan, you can't fly in that range at all?

Mr. PAPUSH. No, the same thing applies there. The only difference is that the area around La Guardia overlaps the area at Kennedy, so it becomes almost a continuous double circle.

That means you can fly there, but you have to have air traffic control authorization.

Mr. MINETA. So, from surface to 7,000 feet, you have to have to be in radio communication, you have to have your transponder, and your navigation receiver, in order to be able to go through that area.

Mr. TORRICELLI. But over this northern New Jersey area, you need that 1,800 to 7,000 feet?

Mr. PAPUSH. Yes, you mean outside of the Newark 6½-mile radius. That is right.

Mr. TORRICELLI. And under 1,800 feet?

Mr. PAPUSH. You can operate without air traffic control service as long as you are beyond 5 miles from Teterboro.

Mr. TORRICELLI. OK.

Now, to my point which should be becoming obvious, if an 8-mile radius is good enough over Queens, most of Brooklyn, the Bronx and Manhattan, with all respect to our neighbors in New York, there now being 1 million people living in Bergen County, why is it that that radius extends for a substantially less distance out of Newark Airport?

Mr. DEL BALZO. Congressman, if I might, the procedures that are in place over both La Guardia and Kennedy are designed for air carrier airports. It is a terminal control area. The terminal control area is not designed for a general aviation airport.

Mr. TORRICELLI. I understand that.

I am not suggesting that the same rules should apply to Teterboro. My question is more Newark Airport oriented, in that you have a larger radius around the New York airports than you do around Newark Airport, allowing planes to operate at lower alti-

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tudes in northern New Jersey than you do around New York City. And what I am looking for is the rationale?

[Pause.]

Mr. TORRICELLI. If there isn't one, there isn't one. I am not asking you to come up with one.

Mr. PAPUSH. The only thing I think is the proximity between Kennedy and LaGuardia being closer than between Kennedy and Newark. You have this double zone that overlaps and takes up more airspace.

Mr. TORRICELLI. That appeared logical to me, and seemed to make sense for why it looks like such a vast area that protects the airspace over New York, except that you are dealing with a radius number.

I am not going to ask you to respond. I am just going to make a point, and if you want to respond, fine, and if you don't, don't feel obliged to. It appears to me that the reasons for this when originally done were the safety and consideration of aircraft operating over New York City, a densely populated area. You did not want planes operating without controls close to the surface.

My point would be that unless there is some rationale that has not yet come forward, the same rules should operate over northern New Jersey. With a million people in Essex County, and a million people now in Bergen County, over half a million in Hudson County, the same safety and considerations are due in northern New Jersey as are due in Queens in Brooklyn, which have comparable density of population to some of our areas.

Now, maybe there is another reason. But I haven't heard it yet in that Newark and northern New Jersey are allowing planes to operate at considerably less altitude at comparable distances from the airports.

Mr. DEL BALZO. Congressman, I think the point you make is certainly a good one. We are about half-way through what we call an operational review of the airspace in northern New Jersey. Recognizing that there is unique situation with the closeness of an air carrier airport, Newark ruling substantially, and that Teterboro Airport, a general aviation airport, where the rules may not quite fit.

We are looking at that whole airspace as a unique site specific environment, and in about 2 months, we should have some recommendations as to whether or not any changes are in fact needed.

Mr. TORRICELLI. So, the question of these numbers and distances that apply to northern New Jersey then, are being reviewed?

Mr. DEL BALZO. Yes, sir.

Mr. TORRICELLI. Good. Not to belabor the point, but I think you know my feelings on this. That you are now dealing with an air traffic situation that is no longer a New York specific, but is an entire region. A region where the great population density are no longer merely within the confines of New York City, but are now shared by a vast metropolitan area.

And the safety considerations, the noise considerations, the congestion issues, which apply to some areas of New York City, now must be addressed to the entire area. For example, when the chairman opens this to general questions, reviews that I know you are

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doing on building heights in New York City approaches to airports, I am concerned about that in our area.

The crash that took place over this town, one of the scenarios under which it would have much, much more dangerous, is that we are now in the process here of major building constructions to great heights along approaches to these airports. And I am wondering whether you are looking at this as you are looking at New York City.

My point is generally those standards that have applied to New York, now must be applied to us as well.

Thank you, Mr. Chairman.

Mr. MINETA. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

I just wanted to ask one question to follow up on Mr. Torricelli's inquiries. If you change a TCA after you make these studies, then what is the procedure—you have public hearings, and you go through a rulemaking procedure. Is that the way you finally accomplish a change?

Mr. DEL BALZO. Yes, sir.

We would go through the same public hearings that we are going through now as we introduce something that is called an ARSA, which is an airport radar service area. A little bit less stringent than a TCA. We do go through the public hearing process.

Mr. HAMMERSCHMIDT. I just then would make another comment, not related to that.

Except that the New York Air Traffic Control Center handles about a little less than 5 million flights, according to the statistics I have seen up here, in a year. And it is amazing with all the complexity of this system as to how safe you keep it. And I think that FAA is to be congratulated.

Mr. DEL BALZO. It is the people. Thank you, sir.

Mr. MINETA. Mr. Del Balzo, will any of the others, Mr. Handel or Mr. Haight be testifying this morning?

Mr. DEL BALZO. We're here to respond to questions.

Mr. MINETA. OK.

As I indicated in my opening statement, we are concerned about the adequacy of staffing at air traffic control facilities serving the New Jersey area. You heard the statistics of the General Accounting Office indicating that in the first 6 months of 1985, traffic handled by the six facilities increased by 18 percent over the first 6 months of 1981. This included a 54-percent increase in traffic handled by the Newark Terminal. Yet, during the same period the number of controllers at the six facilities decreased by 40 percent.

Is it your position that you are now able to safely handle 18 percent more traffic with 40 percent fewer controllers than in July 1981?

Mr. DEL BALZO. Congressman, without question I believe that we are handling the increased traffic today with less controllers as safely or more safely than we did in 1981.

And I think you have a right to ask how can that be, how can you handle more traffic with less controllers just as safely as you were doing in 1981. I don't think it is fair to compare today's situation to 1981. I don't think it is fair to compare the number of controllers on board today to what we had in 1981. I think the right

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comparison is the number of controllers on board today, and their experience level, to what we need to manage today's traffic safely.

I believe that by the numbers, we have the number of air traffic controllers onboard to handle today's traffic safely. Now, how do we do that? We do it through many improvements that have been made in the system over the past 4 years. About a year ago we recognized the need to centralize flow management of aircraft in the airspace. Even out the flow so that air traffic controllers would be handling less traffic per unit of time, and we would reduce the peaks.

We couldn't do that without the introduction of more sophisticated computers. We introduced new computers into the system. We call them Apollo Computers. It took a while for those computers to come online. It wasn't good enough. What we needed to do was introduce what we call traffic management units into the local facilities. So, for example, the New York Center and the New York Tracon, has a local traffic management unit where every morning they judge what the situation is going to be, what the weather forecast is going to like, what the traffic is likely to be.

They talk to all the towers in the region, they can talk about the weather at the individual airports, runways to be used. And then they talk with the users, so that the users can plan their flight activity for the day.

You put all that together, along with the agreements that airlines made about 1½ years ago to schedule their departures out of the high density airports in a way that would try to minimize the peaks. And I believe that we have been able to achieve a tremendous reduction in workload on air traffic controllers.

The system is not perfect. There is still much more that we need to do.

Mr. MINETA. Now, as far as adequacy of staffing is concerned, you feel that it is adequate to handle the traffic involved because of the upgrade of the equipment?

Mr. DEL BALZO. It is adequate to handle the traffic today because of the upgrade of the equipment and increased productivity that we were able to get through different changes that we have made.

If you look at the GAO study, you will find that many of the controllers said that there has been resectorization in their facility. Resectorization means that we have refined the way traffic flows through their facility, through their sector, with greater efficiency.

If you look at the number of productive hours that we are getting from air traffic controller work force today, today air traffic controllers are averaging about 5½ hours of control time. In 1981, we were averaging about 4 hours of control time. That in itself is a 25 to 30 percent increase in people productivity.

Mr. MINETA. But the balance of that time was in training, let's say comparing today today with 1981?

Mr. DEL BALZO. The balance of that time was in training and time off position.

Mr. MINETA. Are you saying that they were sitting in the coffee shop?

Mr. DEL BALZO. I would say that before the strike, sir, we were overstaffed. I would say that, yes.

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Mr. MINETA. And yet, the survey from the GAO seems to indicate that the staffing is not adequate, that the controllers at least felt that they were handling more traffic than is desirable.

I am just wondering do you think that the controllers' opinions represent any kind of credible evidence that controllers are in fact overworked?

Mr. DEL BALZO. I believe that controller opinions are very credible. I think you have to put it in a time perspective as to when the GAO survey was done. I believe that you will find that most of these surveys were done about a year ago. That is just about the time that we introduced centralized flow control. That is just about the time that we introduced the Apollo Computers. That is just about the time we introduced the traffic management units.

Mr. MINETA. Mr. Del Balzo, if I might interrupt.

I think I would buy that response if they only talked to controllers. But they also talked to supervisors and others as well, and it seems to me that when all layers are saying that, yes, they feel they are being overworked, that there must be some credibility to their problem of the amount of overtime as well as the work that they are having to perform as controllers.

Mr. DEL BALZO. Congressman, I think that there are many different sides to that issue.

There is a side that says responsibility for working traffic is two ways. Our controllers and our supervisors are trained to the point where we don't expect them, we don't expect anyone to handle more traffic than they are able. And that is important. I know of many controllers who will not take a handoff, they will delay that airplane because they feel that they are not ready to accept it. We encourage it, we want it, and we expect it. I think that is an important point that we must understand.

Mr. MINETA. That is a point that maybe we might have experienced yesterday flying up. All of a sudden we took about a 90 degree turn, and afterwards I asked the pilot what happened. And he said they didn't want to hand off to the next person, so they gave us a 90 degree turn, and also told us to drop from 17 down to 10,000 feet. And the pilot did both of those maneuvers at the same time.

Mr. DEL BALZO. I think what you just told me is the system is working.

Mr. MINETA. We found out it did anyway yesterday.

I am just wondering though, given what your response is right now, whether or not we are not going to be working ourselves back into some of the same problems that created the 1981 situation. And I am wondering about how we are dealing with that.

Mr. DEL BALZO. Let me talk a little about the things that we have underway. As I said, the system is not perfect. I would kid you if I said it was.

Two hours of unwanted overtime is two hours too much. I am not saying that we will ever do away with overtime. We certainly will not. It is a good way to do business. Our goal is to get rid of and of the position where controllers, even if it happens seldom, are forced to work even 1 hour of overtime. One hour of unwanted overtime is too much, so we are concerned about that. We cannot

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expect to continue to have air traffic controllers working 4 hours of overtime every week for the rest of their career.

We are concerned about controller workload. We don't think that we have done enough. There is much more that needs to be done. We do need additional staffing, and I would again be kidding you if I said that we didn't need additional staffing. Not for safety today, but for tomorrow. We talk about retirements tomorrow, we need to establish a controller pipeline for tomorrow. And, in fact, we are doing just that.

One of the hardest hit facilities that we have in the eastern region is one that we talked about this morning. It is the New York Center. Through the Course Option Program, we have qualified our first three people. We have signed up the first three people from radar towers into the New York Center. Three additional radar controllers have been to the New York Center. We are satisfied with their capabilities. We are ready to accept them.

We have identified another 12 radar controllers from towers in the eastern region, that have volunteered to come to the New York Center. Last week we hired 22 additional people, new recruits off the street for the New York Center. They are currently in class in Oklahoma City. This month, the month of March, we have hired air traffic controllers off the street. They are scheduled to go to school in Oklahoma City during the month of March.

I think that what I have just indicated to you that even assuming a reasonable dropout rate in Oklahoma City, you will see within the next 3 months, 60 new people walk into the New York Center. The plans are underway.

Mr. HAMMERSCHMIDT. Will the gentleman yield on that.

When you say off the street, are you getting people with aviation experience in some instances to be controllers, people that are former pilots or flight engineers and so on?

Mr. DEL BALZO. We are getting some. We do it through a very rigorous screening program. It is an air traffic control test that we give. It tests the brightness of the person, the aptitude of the person, and what we believe their ability would be to make it as an air traffic controller. Interesting to note, that the test that we are using today, we are hiring people between 90 percent and 95 percent. That is a pretty high score on this air traffic controller exam. There are people out there who want to become air traffic controllers.

Before the strike, using that same test, we were hiring people with grades of 70 to 75. The kind of people that we are hiring today through this new screening device, I believe is an order of magnitude better than the quality of person that we were getting off the street 5 years ago.

Mr. MINETA. The survey that GAO did also indicated that one-third of the controllers at facilities serving northern New Jersey often declined requests for traffic advisories. Twenty-five percent of the controllers often declined requests for weather advisory reports.

Do you think that the inability of controllers to provide these advisory services has an adverse effect of safety?

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Mr. DEL BALZO. Congressman, I am not familiar with that question or response in the GAO survey and would like to furnish you something for the record later.

Mr. MINETA. That will be fine.

[The following was received from Mr. Del Balzo:]

Congressman, that particular question that the GAO asked was directed at Full Performance Level (FPL) or Developmental Level controllers certified on at least one radar position. Considering that guideline as it applies to the Northern New Jersey facilities any response would have only been applicable to the TCA position of the Newark Tower and the Newark Sector of the New York Tracon. Advisory information is an additional service provided to the extent possible contingent only upon the controller's capability to fit them into the performance of higher priority duties and on the basis of limitations of the radar, volume of traffic, frequency congestion, and controller workload. The controller has complete discretion for determining if he is able to provide or continue to provide a service in a particular case. Any safety advisory data would have priority and be transmitted under any circumstances. Weather advisories are available on a 24-hour basis from the Teterboro Flight Service Station. Additional weather is available on a 24-hour basis from the automatic terminal information service emanating from the Newark Tower.

Mr. MINETA. GAO also cites an FAA-DOT standard or goal that it is essential that at least 75 percent of the controllers at a facility are full performance-level controllers.

What is the rationale for this standard?

Mr. DEL BALZO. That is our goal, 75 percent at the New York Center. That equates to 220 full performance-level controllers. That standard allows us the greatest amount of flexibility in how people are used to work traffic.

I think it is important to recognize that if one is not a full performance-level controller, if he has checked out and qualified on a position, when the person is working that one position he is in fact a full performance-level controller on that position. So, when we are short what we call FPL—full performance-level controllers—what that means is that we have reduced our flexibility in how we can use and manage people.

It makes the scheduling job much tougher than it would be if you had all full performance-level controllers. But it has nothing to do with the safety of the operation.

Mr. MINETA. Well, the GAO reported that as far as New York, La Guardia, and Newark were concerned that 60 percent of the controllers are full performance, so what are your plans to bring that up to the 75-percent level?

Mr. DEL BALZO. At the New York Center, our goal is 220 full performance-level controllers. We have chartered a course that will get us where we want to be by October 1987. That takes into account modest projections on retirement at the New York Center, and at the same time establishes a pipeline where once we reach that journeyman level, we will be able to maintain that level. October 1987 is our goal for the New York Center.

The New York Center is the worst off of all of our facilities, and you can back off from there for the rest of our facilities.

Mr. MINETA. Newark and La Guardia?

Mr. DEL BALZO. I don't see that kind of a problem at Newark and La Guardia. Probably our second facility is the Tracon. And at the Tracon too, we are addressing that issue, and I think well before October 1987, the Tracon should be well under control.

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Mr. MINETA. What about GAO assertions about retirements, will this be a serious problem?

They found that 26 of the 44 supervisors at the New York Center are eligible to retire and probably 21 of them will do so within the next 2 years. Would you agree that if all controllers and supervisors in the New York/New Jersey area who are eligible to retire, do so in the next few years, there would be a serious problem, and what is your assessment of the likelihood that a large number of controllers will return?

Mr. DEL BALZO. Congressman, I think it gets back to the kind of discussion that we were in this morning. Whose numbers and what are my numbers compared to GAO's numbers or anyone else's projections. We base our numbers on historical retirement rates—based on our own projections, based on our own talking, and based on what we believe is likely to happen.

How good are our projections? What I can tell you is that last year we projected something like 400 retirements and there were 401. If you look back over the last 5 years, you will find that our projections of what is likely to happen tomorrow based on what we know is usually within plus or minus less than 10 percent.

What we can't account for are surprises. If in fact there is some legislation that affects someone's retirement, I don't know what will happen. But I do believe that we are prepared and we have laid a course that takes into account the number of people that will be retiring.

Mr. MINETA. What do you think would be a desirable level of time for supervisors to spend handling traffic?

Mr. DEL BALZO. Congressman, you have a knack of asking very complicated questions.

Mr. MINETA. What I am asking is when a supervisor is handling traffic and at the same time trying to train someone, is this good? We had that Eastern Airline shuttle taking off down the runway at National when there was that helicopter incursion, and there was a supervisor who was handling traffic and who was at the same time trying to do some training on someone sitting at a board. You just can't be juggling all these balls in the air all the time.

Mr. DEL BALZO. Let me say that at no time on a controller floor is there no supervisor supervising full time. When a supervisor is working traffic, there is another supervisor on that floor providing the supervisory functions.

Our goal is to have first line supervisors work about 10 to 16 hours a week working live traffic. And we expect them to be spending the rest of his or her time fulfilling his supervisory duties. If you look again at the GAO study, they asked controllers whether or not they felt their supervisor was working too much traffic, and the answer was "No."

"Do you think your supervisor is spending too much time working traffic?" And the answer was "No." We believe that the supervisors today at some facilities, the New York Center and probably the New York Tracon, are working more than we would like to see them work traffic. I say that on the order of 10 to 16 hours a week is about right.

Mr. MINETA. And when do you hope to hit that goal of 10 to 16 hours?

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Mr. DEL BALZO. At the New York Center, it will be gradual, but certainly before October 1987. At the Tracon, my guess is that it will be late this year.

Mr. MINETA. Later on we will be hearing from People Express. In their testimony, they state that they are building a new terminal at Newark Airport, and that when the terminal is completed in 1987, People hopes to expand its services from the current 400 flights a day to 800 flights a day.

Could this level of traffic be handled with existing levels of controller staffing? If not, are there plans to increase staffing to handle this kind of increased traffic?

Mr. DEL BALZO. I don't know whether or not the additional traffic can be handled with the existing controller staffing. I would suspect, and this is my own feeling now, this is the first time the question has been raised, I would suspect the answer is, no.

If you are talking about that significant an increase in traffic, you are probably also talking about an increase in the staffing standard at Newark, which means we would be bringing in additional controllers into Newark. You don't have the problem of attracting journeymen controllers into a Newark tower. Newark is surrounded by lower level towers. It is surrounded by Caldwell, it is surrounded by Teterboro.

There are people that are anxious to leave those kinds of towers—we use them as a training ground for career progression—to move into a Newark tower. Then one moves from Newark into the Tracon, and that is the progression that we hope to see our controllers go through. So, if the answer is, yes, we require additional controllers at Newark, it is not like you have to hire them off the street and wait 4 years to get them qualified. You're talking about 6 months and we are ready to go. And that is not a problem. If the answer turns out to be, yes, I don't see that as a problem.

Mr. MINETA. What about New York Center—is that your most difficult one in the area?

Mr. DEL BALZO. New York Center historically has been very difficult for us to staff.

It has to do primarily I believe with the cost of living in that part of the country. It has been very difficult for us to staff the New York Center. We have made some progress recently with the 20 people that have volunteered. The journeymen air traffic controllers, the radar controllers, who have volunteered to relocate to the New York Center. That is a major breakthrough for us.

Mr. MINETA. Those 20 are coming from where?

Mr. DEL BALZO. Six of them are coming from lower level centers, so these are six people that should be fully ready to go in less than 12 months. The other people are coming from radar towers. The training program for them will probably range from 12 to 18 months before they become full performance-level controllers checked out in all positions. My guess is in about 9 months, you will have them qualified to work maybe two operational positions.

Mr. MINETA. You are using there a different standard as far as what it took to qualify as an FPL 5 years ago, as compared to what it takes to qualify as an FPL today.

Mr. DEL BALZO. No, sir.

Mr. MINETA. Hasn't that time period shrunk?

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Mr. DEL BALZO. The time has shrunk. The standard has not been lowered.

What we are doing today is we are training and qualifying to a standard because of a waiver that we were able to get from the Office of Personnel Management, whereas in the past we were training to a time on position. So, whether or not you were qualified to work all positions in the New York Center, if you were only there for a year, you would not progress to a journeyman level.

Mr. MINETA. Part of the job of learning a sector is really time on the job, is it not?

Mr. DEL BALZO. Yes, sir, that is right.

Mr. MINETA. So, if you don't have the time on the job—it used to take 1 year and now you are going to shrink that to 6 months—can you really say that that person is as well qualified in that sector as the person who sat on that board for 1 year?

Mr. DEL BALZO. I don't think there is any question because we test and we grade to a standard. And if someone can meet that standard in 6 months, he moves on in 6 months. If it takes someone 1 year, he stays 1 year. We have much more flexibility.

Mr. MINETA. Are any of the people coming into the center brand new, coming right out of the academy?

Mr. DEL BALZO. Yes.

Mr. MINETA. The balance are?

Mr. DEL BALZO. The balance. As I mentioned, there are 22 people.

Mr. MINETA. So, about 10 are coming out of the academy then?

Mr. DEL BALZO. Ten will come out of the academy in March, and probably another 16 will come out of the academy in June of this year.

Mr. MINETA. Now, People Express will also testify that a constraint on the growth of new workers is that Newark and Teterboro are treated as a single airport in determining the level of traffic which the air traffic control system can handle.

First of all, is that correct, and are there any plans to change that system?

Mr. DEL BALZO. Yes, it is correct. Newark and Teterboro are treated as a single airport, particularly when different runways are in use at each airport. It is important that the traffic in and out of those two airports be very well coordinated. So, we treat them as a single airport.

As you probably know, we are going through a complete review of the entire airspace up and down the east coast from Atlanta on up to Boston, it is known as the East Coast Plan, that will completely redo the airspace. It will simplify it and will give us a lot more flexibility in the terminal areas. We are about 12 months away from implementing those new procedures.

Mr. MINETA. Another point that is made in People Express' testimony is that in 1985, Newark had the highest incidence of air traffic control delays of any airport in the United States. Not only does People Express say that in their testimony, the chairman of our full Committee on Public Works and Transportation, Mr. Howard, reminds me of that every week since he comes home every week. Is this statistic accurate, and is FAA doing anything to improve the situation?

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Mr. DEL BALZO. I think the statistic is accurate. I give People Express a lot of credit for those statistics because I think they had a lot to do with those statistics. But I think you've also seen a significant decrease in delays in the latter months of 1985. I think we had to get ourselves adjusted to the hub and spoke concept. We had to get ourselves adjusted to the enormous amount of growth that took place at Newark.

I believe that People Express will tell you today that things are significantly better now than they were a year ago, but we still have a ways to go.

Mr. MINETA. What types of proposed construction projects might pose a hazard to air navigation as described in your testimony—and is that not Mr. Roe's clear zone concept which you are referencing, and would you describe it further?

Mr. DEL BALZO. Certainly.

That is a subject that is certainly geared to Congressman Torricelli's thought. I think it is important to point out that the direct authority to control the use of land around airports rests with the local government bodies. As you well know the Federal Aviation Administration, the Federal Government, plays an advisory role. We issue our advice and we issue also what we believe model zoning to be. And we do that through an advisory circular.

We work very closely with airport authorities. We work very closely in the New York/New Jersey area with the Port Authority of New York and New Jersey in assuring that our advise is adhered to. And I think we have been very successful to date, certainly in keeping clear zones clear.

I know of several examples that we have seen success in the New York area. One is there was a developer that wanted to build a 21-story commercial building about 1½ miles from Teterboro Airport. We worked with that developer on seven different proposals before we finally agreed to one that would meet our concerns and the concerns of the surrounding community. So, although we play an advisory role, in fact, I think we have a lot of leverage.

We have a lot of leverage in terms of what we do with airport discretionary money through the grant program. We have a lot of leverage because developers are afraid of the liability they would incur if they did not take our advice. And I don't know of any case, certainly in the eastern region although Nationwide there may be one, where we have not wound up being successful. As a last resort, what we would do is we would change traffic patterns, we would restrict the use of runways.

We would do whatever we have to do to insure that construction did not impact upon air safety.

Mr. MINETA. What is your recourse should an airport sponsor violate the assurances that aerial approaches to the airport be adequately cleared and protected and that appropriate action be taken to restrict land uses adjacent to and near the airport to compatible uses—and in that respect, how does FAA define compatible uses?

And while you indicate in your testimony that the existing system may not need changing, might the provision of further incentives for better land use planning by the FAA improve land uses around our airports?

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Mr. DEL BALZO. Congressman, I don't know whether or not there are any changes that are required to the way we are doing business today. All I know is that we have been successful in every case that we have been involved in reaching agreement with the airport sponsor, the airport owner, the airport operator, and the local community to insure that our guidance is adhered to.

One of the things that has happened in the State of New Jersey is that they have passed what is known as the Hazardous Zoning Act of 1983, and I believe that that zoning act becomes a model for the rest of the Nation to follow. It becomes the model that patterns itself after our own advisory circular.

Later on this afternoon, Jim Crawford from the State of New Jersey, will be testifying and he will be talking about that legislation in more detail. But certainly, in the State of New Jersey, I believe that the right tools are in place for effective, compatible landings.

Mr. MINETA. Do you have any listing as to what might be considered compatible uses of land?

Mr. DEL BALZO. We do.

It depends on location from the airport. We issue that in an advisory circular. If you are interested in a more detailed answer to that question, I would yield to Bill Handel.

Mr. HANDEL. Particularly in the area of the immediate clear zone, which would be 2,500 feet out from the end of the runway, we would consider incompatible land use any congregation of people. Incompatible land use surely would be residential areas within the clear zone. Churches, schools, basically congregations of people within a half-mile or so of the airport is incompatible.

Mr. MINETA. Approaches as well as departure?

Mr. HANDEL. Yes, sir, approaches to all runways.

Mr. MINETA. Could you describe in more detail the master planning process and the considerations it entails as a precedent for Federal decision to provide Airport Improvement Program funds for the expansion or construction of an airport?

Mr. HANDEL. A master plan requires an airport authority to lay out a long-range plan for the development of their particular airport.

We must be convinced that the plans of the airport take into account community concerns, noise concerns, and may include an environmental assessment. We must be convinced that the plans for that airport are designed to meet projected requirements for tomorrow. We fund the development of those master plans with Federal money, and for airports in the eastern region, we are satisfied with the state of the development of those plans.

Mr. MINETA. Thank you.

Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

I want to get back to another subject regarding controllers, Mr. Del Balzo. From a few corners we continue to hear, as we did this morning of course, that we hire the old controllers, the pre-1981 controllers. From a straight management viewpoint, if all the options were open to you and there were no restrictions on personnel selection, what would be your opinion about hiring the old controllers vis-a-vis hiring new controllers and training them, realizing

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that safety, of course, is your No. 1 concern. What about the economic efficiency of that? And then if you would comment further on what you think it would do to the morale of the system?

Mr. DEL BALZO. Obviously it is an opinion. It is a moot question because the President has said we will not, but your question is, What is my opinion as a manager? How do I feel about that question?

I think there are a lot of things that I think about. I think about the affect that bringing back a fired controller would have on controllers who stayed with us through the strike. I think about whether or not bringing back a fired controller would introduce tension into a facility where that is the last thing that we want. You don't want tension in an air traffic control facility. I think about the fact that fired controllers have been gone for 4½ years. Before we could bring back a fired controller, and I am not sure how we would do it anyway, but before the procedures are developed you are talking probably another year. That is 5½ years.

A lot has happened in 5½ years. New automation has been introduced, procedures have been changed, the training program has been changed. I can tell you that for those controllers that the court found were, in fact, not strikers and were returned to us, it took us anywhere from 6 to 13 months to get them requalified on position. And I can tell you that there is one fired controller at the New York Center today, who has been with us now for 13 months, and has not checked out yet.

I have never heard a fired controller who was returned to us saying that he was being harassed or mistreated when it took so long to check out. What I am saying is that it will take 1 year to 1½ years to have someone retrained. I look at the kind of people that we are hiring today. We are hiring different kinds of people. We are hiring them coming off a test with a score of 90 to 95, compared to people that scored in the low 70's.

I look at the ages of the fired controllers, and the average age was about 35 to 38. Five years have gone by, which means you are talking about bringing a controller back anywhere from 40 to 45 years old. You know that the Government retirement system today allows a controller to retire at 50 years old. And what do you get for the return on investment?

I look at the training and recruitment program that we now have in place hiring controllers off the street. I put all that together, and I say, no. That is where I am, no.

Mr. HAMMERSCHMIDT. Thank you very much.

Mr. MINETA. Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman.

Sir, I appreciated your conclusions about the safety of our air traffic systems and of our airports. I especially appreciate it knowing the limited resources that you are working with. And so, I want at the outset to say that the criticisms of the system do not involve you or the individuals, we recognize the limited resources. But you understand, from our prospective there is something wrong.

We are in a community where six people lost their lives in a congested area where two planes fell out of the sky. We cannot be content to merely hear conclusions that the system is safe. It, obviously from our perspective, is not. We also are living with the reality

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that our principal airport in our State, which is rapidly growing, appears on the list of the 10 worst in the Nation.

Answer for me, if you could, how Newark Airport, which has recently been reconstructed, is of a modern design, is growing quickly, is funded and supervised by a profitable and well-run organization like the Port Authority, could appear on a list of the 10 worst airports in America?

Mr. DEL BALZO. I think that a lot of that has to do with significant growth in a short period of time. We were caught by surprise. We did not anticipate the significant growth as a result of deregulation that took place at Newark Airport as quickly as it did, and we have a lot of catching up to do. So, the right question, I believe again is, What are you doing about it? What are you doing to make it safer today and safer tomorrow than it is today?

I think if you look at our plans for Newark Airport, you will see that it is first on line to take delivery of a lot of new technology. One of the first new microwave landing systems that comes off the line, where does it go? It goes to Newark. One of the first new airport surface detection radars that is now under contract, where does it go? It goes to Newark.

Mr. TORRICELLI. That is for wind shield protection?

Mr. DEL BALZO. No, that is for the detection for traffic on the airport, so that we can watch and monitor and control so that they don't violate clearances.

Mr. MINETA. What is the arrival date of both of those pieces of equipment at this point?

Mr. DEL BALZO. Well, microwave landing system, if I am not mistaken is spring 1987. The ASDI will probably find itself at Newark, maybe late 1987 or early 1988. I am not sure of the delivery schedule.

Mr. TORRICELLI. Would you consider Teterboro and Newark Airport to be on an economic collision course, if no other, in that Teterboro's and Newark's growth are related?

Mr. DEL BALZO. I think you have to treat Teterboro and Newark, not as two airports that stand alone in a desert. They don't. I think you have to look at all the airports in northern New Jersey and in New York as an airport system.

And I think what you must do then is decide what the proper role for Teterboro is related to the role for Newark Airport, related to Linden, to Morristown.

Mr. TORRICELLI. That is the question that I want to come to.

Teterboro does, in a sense, present itself as part of a limit in growth at Newark because they are at the same landing slots. It presents a real limit to Newark Airport.

Mr. DEL BALZO. Certainly.

Mr. TORRICELLI. Given that, the suggestion that I have made for a new regional plan for the New York/New Jersey metropolitan area that would designate new general aviation airports to move some of this traffic out of Teterboro. Because of what that means to the economic potential of Newark Airport and because of congestion and safety concerns.

Could you comment on that concept, greater utilization of more rural and suburban airports for courier services, some executive jets, and general aviation?

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Mr. DEL BALZO. I think the concept is an outstanding one. And I am not sure that anyone today will disagree with that concept.

Mr. TORRICELLI. Where should the leadership come from in doing it?

Mr. DEL BALZO. I think the leadership must come from the State. The State working together with FAA, and I think we can make it tremendously forward in developing an integrated system of airports that serves the New Jersey area.

Mr. HANDEL. Excuse me, if I may, we do provide funding for State system planning for the process itself.

Mr. TORRICELLI. You provide funding for planning.

It is important that people understand that by this proposal we are not suggesting that there isn't room for anyone in the air transportation system in the region. This is not to the exclusion of any individual interests from courier services to student pilots. It is merely that we need to find room for everyone while still providing for safety and a quality of life on the ground.

And it appears to me that there is a lack of coordination in the system. If we are expanding courier services at Teterboro to the detriment of commercial airlines at Newark Airport, there is something wrong. And we need a plan and an approach that provides for both with some safety. But I think that is simple reality at the moment.

Mr. DEL BALZO. I agree with that.

Mr. TORRICELLI. Let me move on a little further.

The visual flight approaches over Bergen County. As you say, you are looking at the system now in the Northeast, and I thought you were generally conceding the point that perhaps it is time to look at northern New Jersey now given its new population and congestion, more in terms of how New York may have been looked at in the past.

Is it possible, in your judgment, that the time has come to end visual flight approaches over these heavily populated areas over Northern New Jersey?

Mr. DEL BALZO. Congressman, that is certainly a serious question, and I would not want to prejudge the outcome of the study that we are doing now.

Mr. TORRICELLI. But it is a question—it is an open issue.

Mr. DEL BALZO. It is a question that we are asking.

Mr. MINETA. Mr. Del Balzo, could you please move the microphone up. I think there are a lot of people in the audience who are interested in this answer.

Mr. DEL BALZO. OK.

If I could put that question in my own words, it is whether or not there are some airports in the United States with a certain mix of traffic and a certain traffic density that don't lend themselves to the mix of VFR/IFR traffic. That is the basic question. And that is a question that I think needs to be studied very carefully before we answer it.

Mr. TORRICELLI. Since that is a legitimate question if it would apply to anywhere in America, it would apply here. If the answer to that is affirmative, that there are now new limits, I would think that it would apply here as much and more than anywhere.

Mr. DEL BALZO. I don't know that.

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Mr. TORRICELLI. And you are not going to let me lead you any further.

This problem of Teterboro Airport with the quality of life in the region is the classic example of a failure of land use planning, and basically incompatible uses. I was interested before in your comment that you would not approve airport construction where within this radius that you defined, there were these incompatible uses. And you cited the schools and churches and such.

Now, does that work retroactively as well with changes or new construction at an airport when one of these incompatible uses is in direct proximity to the airport?

Mr. HANDEL. I did not mean to infer that we would not approve it. Our goal is to insure, through the sponsor's participation and with Federal aid, that the sponsor acquire correct property interest to prevent that type of construction, or relocate residences where practical. However, for the residences being built outside of the area of the control of the sponsor, neither the airport sponsor nor the FAA has very much control over those types of things.

Mr. TORRICELLI. Well, let's deal with the case in point.

At Teterboro, you have an instance where it is at least discussed for major new construction, within I believe the parameters you have set there. It happens to be a school and other of these facilities. There will be new FAA money going into that airport in future years.

Where does that leave you with a policy judgment?

Mr. HANDEL. There has been some past consideration of the future development at Teterboro as you have eluded to before, however, none of this has yet as far as I know, been approved. Obviously not by the FAA, and the proposed development has not been accepted by the Port Authority. They are re-evaluating it, and when the time comes to present that proposal, be it a new runway or other development, it would go through an environmental assessment. And depending on the nature of the project, it is difficult to prejudge what we would do.

Mr. TORRICELLI. I am not asking you to prejudge it, however, you have raised a new consideration and potentially serious obstacle to the expansion that has not been widely discussed previously. And that is that there is a real possibility that because of incompatible uses of the land that the FAA might have problems with expansion.

Mr. HANDEL. We would conclude that if the project was valid, property acquisition past the runway threshold would be part of the project, subject to an environmental assessment.

Mr. TORRICELLI. Somebody better be prepared to spend a lot of money because there is a lot of property and a lot of value that is incompatible under some of the definitions that we have discussed.

Mr. HANDEL. Yes, but those projects have not been proposed nor approved.

Mr. TORRICELLI. I understand that.

Returning to a question that was asked earlier, is there such a thing as a saturation level in a metropolitan area, and can it be defined for New York and New Jersey?

Mr. DEL BALZO. I am sure there is. I don't believe that it can be defined in a way that would make sense to anyone. It depends so

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much upon the weather conditions. It depends upon the complexity of the traffic itself. It depends upon the kind of mix of traffic that is in the area. I don't believe that it is a meaningful term.

Mr. TORRICELLI. So, there is no such limit that you believe then is being approached in the New York/New Jersey metropolitan area?

Mr. DEL BALZO. No, that is not to say that limits don't get reached at any given time. When you've reached the limit, you sit on the runway for an hour and you wait your turn. So that you can be accepted on the other end. The system itself if self-limiting.

Mr. TORRICELLI. I am going to return again to the controller question in reference to Gramm-Rudman.

Could you anticipate for us that the Gramm-Rudman reductions of this year, and more serious consequences of next year, whether that would mean a reduction of air traffic controllers at Teterboro or Newark Airport that you could yet forecast?

Mr. DEL BALZO. It is hard for me to speculate.

I can only tell you that I have been charged to be sure that I get out there and hire an additional 100 controllers in this fiscal year. I have been charged to get out and hire an additional number of flight standard inspectors this fiscal year, and in fact, we are doing just that.

Mr. TORRICELLI. Given the Gramm-Rudman realities, especially in 1987, is that realistic?

Mr. DEL BALZO. I think if Gramm-Rudman takes effect in 1987, I think it is a problem.

Mr. TORRICELLI. It is a problem.

And I take it would be difficult for you to then assess where the losses in new potential would fall airport by airport?

Mr. DEL BALZO. No, I can't do that.

Mr. TORRICELLI. I was startled before on the question of pilots who are calling in for weather information on a 25-percent basis and not receiving it. I am not a pilot, but I am a lifelong sailor, and I have never inquired of the Coast Guard a weather forecast and not received it. It seems the most basic item of safety.

Is that, to your knowledge accurate, that in fact pilots are calling in for weather information and they are not able to receive it?

Mr. DEL BALZO. Congressman, I think I may have deferred that question a little bit too soon. It didn't occur to me that Jim Haight is, in fact, an accomplished pilot who flies the system a lot.

Jim, what is your view?

Mr. HAIGHT. I don't know the parameters of the GAO's comment on that, however, if a pilot is in the system under instrument flight rules, he already has or should have weather information. And if he is a part 121 or part 135 operator he will in fact have the system weather before he takes off. If that requires updating, there is a whole net to do that.

But back to my basic point, if he is in the system under instrument flight rules and requires a weather update or information for example on a potential thunderstorm cell in front of him, he is going to receive that. If he is VFR he is required to avoid weather.

Mr. TORRICELLI. My general concern for safety in this region is less with that individual than it is with the pilot who is not in the

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system, and is below or at your ceilings, flying free visually over northern New Jersey.

Mr. HAIGHT. That is the point that I am coming to. If, on the other hand, he is operating under visual flight rules, it is just that. And the system is set up that if the air traffic controller has the time, as your concern shows, he can provide flight advisories in terms of weather and other traffic. But it is incumbent on him to remain clear of weather that would change his status, and to remain clear of other aircraft under the see and avoid concept.

Mr. TORRICELLI. Finally, we have a new addition to the air traffic problems in our region. The Goodyear precedent has now been joined by Fuji Films and McDonalds. And blimps are appearing over the New York metropolitan area daily, and operating out of airports in the region.

Do they pose any concern to you at all since we are dealing with visual flight approaches and noninstrument aircraft, and these blimps seem to be flying freely over the area providing visual pollution if nothing else. Are they a safety concern in any way?

Mr. DEL BALZO. We certainly think about them.

The use of Teterboro by the blimps is very closely coordinated between the air traffic controllers in our tower. Our tower manager sits with the airport manager at Teterboro to develop procedures that satisfy our safety concerns. So, no, we are not concerned.

Mr. TORRICELLI. OK, one more question, if I might.

Previously we conducted negotiations with Teterboro Airport concerning having their needs met in a compatible way with the communities. Principally what that has meant has been restrictions on night time landings. Our point has been that we recognize the economic necessity of the airport. It is important to our region, but this endless use of the airport by the air couriers is making it impossible for communities in flight.

One of our proposals has been simply to limit night time landings. That the airport be closed for a period, or at least the amount of traffic restricted, so that it might be open to executive aircraft or others, but not have courier services land at all hours of the night. One of the airport's arguments has been well even if we agreed, the FAA would never permit such a restriction.

Well, what is FAA's belief if such restrictions were granted, and the relevance of this question by the way is, my suggestion to Governor Kean has been announce that you will veto the expansion of the airport, you will not permit any improvements, and you will pressure the Port Authority to come to an agreement in the operation of this airport, one of the conditions being that they close it for a period at night.

So, it has some real relevance to what we are asking Governor Kean to do?

Mr. DEL BALZO. There is no question that we are opposed to blanket curfews at any airport. We think it is in violation of a grant assurance. If there were to be restrictions that were proposed, they would have to nonarbitrary, the lawyers will tell you that they would have to be noncapricious. They would have to not penalize any segment of the users of that airport. All users must be affected equally, and there must be a sound basis for the restriction.

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We have faced curfew issues at Westchester Airport. We reached an agreement that satisfied the needs of the community and our own concerns regarding grant assurances and how the airport would be used. And I believe that if that is the kind of thing that you would like to do at Teterboro, I think there is a way to approach it that may satisfy your concerns. But the answer would not be just a simple curfew. I think it is much more complicated than that.

Mr. TORRICELLI. Obviously, the first preference would be to be able to move some of the heavy night time traffic courier services to other facilities if there is a State regional plan. Absent that, than what we would be talking about would be a curfew, but as you pointed out, on all traffic so that it is not arbitrary.

Mr. DEL BALZO. Well, we would probably oppose that just as vehemently.

Mr. TORRICELLI. On all traffic?

Mr. DEL BALZO. Yes.

Mr. TORRICELLI. I thought your point was that we can't really select on what traffic?

Mr. DEL BALZO. No, the point is that if one were to impose a curfew, it must be founded based on either safety, and we must demonstrate the safety impact. It must be founded on undue noise, and we must demonstrate the noise impact on the local community, and there are scientific accepted ways that that is accomplished.

Mr. TORRICELLI. We have modern equipment now and more going into effect, so that believe me, we will have no trouble monitoring that at all. I can bring my mother from Hackensack here to give you all ample evidence.

Mr. Chairman, in closing this line of questioning then, let me merely state a simple grievance of my own.

As you look at the altitude requirements and address the visual flight approaches, I hope you take in all consideration, the growth of this area. Our population density in northern New Jersey is higher than anyplace in America. Our growth rates are equal to anyplace in America. We built more office space in northern New Jersey in the last few years than was constructed on Manhattan Island.

To allow these low-altitude operations is an inconsistent with the use of our land and lifestyles in northern New Jersey as it is anywhere in New York City. And to allow visual flight approaches over northern New Jersey, and to allow private aircraft to merely roam our skies at a variety of altitudes is about as relevant as if we were to continue to permit people to roam on their horses over each other's lawns.

We are in that kind of transition, and I hope you recognize this area for what it is, and its potential, and its changes. That is what we are looking for from the FAA, as you reevaluate the altitude requirements and the visual approach question in northern New Jersey.

Thank you, Mr. Chairman.

Mr. MINETA. Thank you, Mr. Torricelli.

Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Mr. Chairman, I just have one more comment to make at this time.

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I regret that the public becomes unduly alarmed over the effect of the Gramm-Rudman-Hollings Act on many activities that they expect from the Government.

The reason I say that is that, as many of us in the Government know, the first cuts from Gramm-Rudman—the 4.3-percent cuts—came under a sequestering act, or an impoundment of the funding. This occurred because Congress didn't have the opportunity to act on fiscal year 1986. But my colleagues, and I think all of the executive branch people here know that in fiscal year 1987, the Congress has many options. And they make these decisions in 1987 about where those cuts are to be made.

And I don't know this, but in my opinion, they would not allow those cuts to be made in areas of safety, particularly air traffic controllers. So, I just wanted to make that statement in that this is in Congress' ballpark now. And only if they don't act, then it is possible that the Comptroller General again would make those cuts. Although that is not likely because we don't know what the final Supreme Court ruling is going to be on the lower court's ruling. But at this moment, they have yet to declare that new law unconstitutional.

But, you know, they close the Library of Congress 1 night a week. I think if I was in the private sector and I was managing the Library of Congress and they said we are going to take $4.30 out of every $100 that you get, I think I would find some way that I could still leave that library operating just about the way it had been. But you know, we alarm the public for many reasons. And I just wanted to make that statement for the record.

Mr. MINETA. Thank you very much.

Mr. Del Balzo, and to the FAA staff here, thank you very much for being here today. It has been very helpful.

We will at this point recess for a half an hour. We will reconvene at 2:15.

[Luncheon recess.]

[Mr. Del Balzo's prepared statement follows:]

STATEMENT OF JOSEPH DEL BALZO, DIRECTOR, EASTERN REGION, FEDERAL AVIATION ADMINISTRATION

Mr. Chairman and Members of the Subcommittee: I appreciate the opportunity to appear before the Subcommittee today to discuss with you the various issues concerning aviation in Northern New Jersey.

The Northern New Jersey area is an important one from an aviation perspective. There are substantial amounts of air travel within this area, and a significant number of airport facilities to serve travelers. In view of the aviation activity in this region, we have devoted substantial resources toward assuring that the air traffic is accommodated safely and efficiently, both in terms of airport improvements and in refinements to our air traffic control system and procedures. In fact, we have some of the most sophisticated equipment and navigational aids servicing this area. There are 11 Visual Omni Ranges, 5 Instrument Landing Systems, 1 Radar System, 3 Radar Brite Displays, a Low Level Wind Shear Alert System as well as the latest technology in approach and runway lighting systems. In addition, the Newark Airport is scheduled to receive one of the first Microwave Landing Systems in the United States. This state of the art equipment will permit us greater flexibility in avoiding congested areas on our approach paths into that airport.

The FAA has worked with the Port Authority of New York and New Jersey as well as local communities in developing departure and arrival routes that traverse over the least populated areas. Working closely with these entities, the FAA developed and implemented the Meadow Visual Approach into the Newark Airport. Recognizing the noise sensitivity concerns of the communities surrounding these air-

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ports, the FAA is continually looking into ways of modifying arrival and departure routes to reduce the noise impact while ensuring safety. We have also provided more than $3 million in noise abatement assistance to the Northern New Jersey airports. A good portion of these funds has gone into the soundproofing of schools in the vicinity of Newark Airport.

I believe this hearing today presents us a unique opportunity to inform the public of the numerous actions we have taken to promote a safe and efficient air transportation system in this area, and I welcome that opportunity.

I would like to take a few moments now to briefly address the topics which the Subcommittee has indicated are of interest to it at today's hearing.

AIR TRAFFIC SITUATION IN NORTHERN NEW JERSEY

There are a variety of air traffic control facilities in Northern New Jersey operated by the FAA. The general responsibility for controlling Instrument Flight Rules (IFR) air traffic and for selected Visual Flight Rules (VFR) air traffic is delegated to the New York Terminal Radar Approach Control (TRACON) facility located in Westbury, New York. This TRACON is responsible for controlling traffic within the JFK, LaGuardia, and Newark Terminal Control Areas.

The Newark Sector at the New York TRACON controls traffic generally at 10,000 feet and below, with a 6.5 mile segment at 2,000 feet and below reapportioned to Newark Tower for conducting limited radar approach control operations.

Morristown, Essex County, and Teterboro Towers all lie below the airspace of the Newark Terminal Control Area. They control VFR traffic within their designated airport traffic areas and control zones below 3,000 feet. They also are responsible for sequencing IFR traffic with this traffic to provide for an orderly flow to and from these airports.

The Tower at Newark International similarly controls VFR traffic as well as IFR traffic operating within the Terminal Control Area environment in airspace delegated to Newark Tower by the New York TRACON.

I would add that flow control procedures are in effect daily in this area to regulate the safe, orderly, and efficient flow of air traffic. Through the use of flow control, we seek to avoid airspace congestion of IFR traffic.

As I noted earlier, this is an active aviation environment in which there are a number of important airports. I would like to take a moment to highlight for you some information concerning FAA operations on these airports.

At Morristown Airport, there is an FAA Level II VFR Tower. The FAA designates five levels of terminal facilities, with Level I being the lowest level activity terminal and Level V the highest. Our tower at Morristown is staffed with one manager, one supervisor, and 11 air traffic controller specialists. The average experience level of our controllers ranges from 2–4 years, which is common at our lower level towers where controllers reach the journeyman level in relatively short periods of time and frequently seek assignments at higher level facilities. The airport serves aircraft ranging from single engine piston aircraft through multi-engine corporate jet aircraft and helicopters. There are no air carrier operations at Morristown. In calendar year 1985, there were 167,669 aircraft operations, of which 8,684 were instrument operations. Three runways are instrument equipped; one with Instrument Landing System (ILS) and two with Nondirectional Radio Beacons (NDB's).

At Essex County Airport, we also have a Level II VFR Tower. It is staffed with a manager, two supervisors, and 14 air traffic controllers. The average experience level of the controllers ranges from two to four years. The airport serves single engine piston aircraft through medium twin turbo-prop aircraft, helicopters, and occasional corporate jet aircraft. There are no air carrier operations. In 1985, there were 247,094 operations at the airport, 7,157 of which were instrument operations. One runway is served by an NDB, and there is an NDB-A approach serving all runways.

Teterboro airport is served by an FAA Level II VFR Tower, which is operated 24 hours each day. The facility is staffed by a manager, two supervisors, 11 air traffic controllers, and two flight data clerks. The average experience level of the controllers is about three years. The airport serves single engine piston aircraft through large corporate jet aircraft and helicopters. Again, there are no air carrier operations at this airport. Last year, there were 268,357 aircraft operations at the airport, of which 95,949 were instrument operations. One runway is equipped with an ILS and an NDB, while another is equipped with an NDB-B and VOR and a VOR/DME-A.

At Newark International Airport, the FAA has established a Level IV Limited Radar Approach Control Facility which is operated around the clock. Staffing con-

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sists of one manager, one assistant manager, five supervisors, 28 air traffic controllers, six air traffic assistants, and two flight data clerks. The average experience level for the controllers ranges from 3–5 years. The airport serves aircraft ranging from the smallest aircraft to heavy jet air carrier aircraft and helicopters. In calendar year 1985, the airport served 401,532 total aircraft operations, with 440,893 instrument operations. The airport is well equipped with ILS's on three runways, NDB's on two, VOR/DME on two, and RNAV on one.

As it would be exceedingly difficult to describe the air traffic control environment in Northern New Jersey in other than a very general way. I will ask Ed Spring at the end of my prepared statement to provide the subcommittee with a description of airspace use in this area using charts we have brought with us for that purpose. I believe that description will highlight both the relative complexity of the airspace assignments as well as the careful approach we have given to structuring this airspace in a way that provides for safe and efficient separation of air traffic.

At this point, I would like to indicate that I firmly believe that the air traffic control system in this area, while accommodating a busy and complex aviation environment, is providing a high degree of safety to air travelers. We will continue to make every effort to assure that it continues to do so.

ANTICIPATED AIRPORT DEVELOPMENT

We have worked closely over the years in assisting local airport authorities develop their airports to meet increasing aviation demands in the Northern New Jersey area.

In the last 6 years, including FY–86, the FAA has issued or is considering grants to local sponsors amounting to $63.5 million. A major portion of this Federal grant assistance ($47.5 million or 75%) has been for development at Newark Airport to accommodate a rapid growth of passenger demand at that airport. The remaining $16 million (or 25%) has gone to 5 other airports in the area during that period to assist in providing relief to Newark Airport and to provide for more general aviation access to the Northern New Jersey communities.

The primary development at Newark for which Federal funds have been granted or are being considered for the immediate future involve passenger terminal, roadways, and projects to achieve aircraft noise relief such as soundproofing of schools. The Federal aid for the other airports (Teterboro, Morristown, Essex County, and Linden) includes safety related projects such as runway rehabilitation and grooving, obstruction removal and lighting, and capacity projects such as additional parking aprons and taxiways. In addition, a noise monitoring system has been added to Teterboro Airport with Federal grant funds and a master plan is underway at the privately owned Lincoln Park Airport with a view toward developing that airport as an additional reliever facility in the Northern New Jersey area.

There are no anticipated projects of which we have been apprised that would either add new airports to the region or otherwise change the mix of aircraft or the airspace environment in the area. Over the long term, however, we expect there to be a continued need to improve airport facilities in this region since our projections are that there will be an estimated 18.3% increase in operations at the Northern New Jersey airports by the end of this century. We will continue to work with local sponsors in the planning and development of their airports to meet both short and long range improvements consistent with local objectives, FAA safety requirements, and environmental compatibility.

GOVERNMENTAL RESPONSIBILITIES FOR LAND USE

Simply stated, the direct authority to control the use of land around airports rests with local government bodies. The Federal Government's involvement in this area is indirect or advisory in nature. Let me elaborate on these points.

The Federal Aviation Act of 1958, as amended, requires that the FAA Administrator prescribe regulations that require persons to provide adequate public notice of the construction or alteration of a structure where notice will promote safety in air commerce. The FAA has done that through the issuance of Part 77 of the Federal Aviation Regulations, which establish when and how a construction sponsor must notify the agency of the proposed construction or alteration of a structure.

When notice is provided the FAA, we carefully assess the proposal to determine whether its construction would create a hazard to air navigation or otherwise necessitate a change in air traffic control procedures. We do not have authority to direct that the construction not be pursued, but instead work closely with construction sponsors and local governmental bodies to achieve compatability with the air traffic system.

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In some cases, local communities may have zoning ordinances which expressly prohibit the construction of any object which the FAA finds would be a hazard to air navigation. In others, it may be incumbent on the FAA to negotiate with the sponsor to make alterations to the proposal. I would add that these efforts have proven to be effective over the years. Should they prove unsuccessful in a case in which we have concluded that an object would pose a hazard to air navigation, the alternative remaining to us would be to alter flight procedures by special regulation to maintain a safe flight environment. Before instituting such procedures, however, I would expect that either the local zoning authority would reconsider its position on the issue or the liability insurance carrier of the building sponsor would terminate its coverage.

I have outlined for you briefly our general activities under Part 77 of the FARs. In the case of airport sponsors who accept an airport improvement grant, we have taken two additional steps to reduce the possibility of structures being built around the airport which could compromise operations at the airport. First, we require the sponsor to agree to an assurance to adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. Second, the sponsor must agree to an assurance to take appropriate action, including the adoption of zoning laws, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. To assist local communities in adopting appropriate zoning ordinances, we have developed a model zoning ordinance to limit the height of objects around airports which we make available to the public in an advisory circular.

Although the current system is not perfect, it has, on the whole, worked reasonably well. We typically receive the cooperation of construction proponents and local authorities. We are aware of no reason at this time to seek to alter the current approach. In fact, serious constitutional questions would likely arise about any direct Federal involvement in specifically controlling use of land around airports.

In closing, Mr. Chairman, I would again like to thank you for your interest in Northern New Jersey aviation activities. I would also like to reemphasize my strongly held view concerning the safety provided air travelers in that airspace. The relative complexity of that airspace, rather than suggesting the existence of safety problems, confirms, in my view, the careful attention we have given to assuring that the airspace is structured to best accommodate traffic in a safe and efficient manner.

That completes my prepared statement, Mr. Chairman. With your permission, I will ask Mr. Ed Spring to provide the Subcommittee with a more detailed description of the airspace utilization in this area. Following Mr. Spring's presentation, we would be pleased to respond to questions you may have.

AFTERNOON SESSION

Mr. MINETA. The Subcommittee on Aviation will please come to order.

At this point, we will have Robert S. Bell, from the National Air Traffic Controllers Association make his presentation, since they are anxious to get back to duty.

Mr. Bell, you can go ahead and introduce your colleagues and proceed in your own fashion.

TESTIMONY OF ROBERT S. BELL, NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION, ACCOMPANIED BY JOEL HICKS, AIR TRAFFIC CONTROLLER, NEW YORK TRACON/NEWARK SECTOR; AND MICHAEL SHEEDY, AIR TRAFFIC CONTROLLER, NEW YORK TRACON/NEWARK SECTOR

Mr. BELL. Thank you, sir.

Good afternoon, Mr. Chairman. My name is Robert S. Bell, accompanying me today are Mr. Joe Hicks and Mr. Michael Sheedy. We are all working FPL air traffic controllers at the New York

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Tracon/Newark sector and members of the National Air Traffic Controllers Association.

I would like to begin my comments by thanking Chairman Mineta for holding this important hearing. The air traffic controllers in this area are grateful for the keen interest that you have shown in the aviation problems confronting us and the Nation's air traffic safety system as a whole. Your expertise and insight are most appreciated. We look to you and the Subcommittee on Aviation to provide the leadership that we so desperately need in Washington if we are going to keep the skies safe.

In addition, I would like to add that due to the lack of proper time notification, we were unable to respond as thoroughly as we would have liked, and we apologize to the committee for the lack of detailed testimony. This effort is largely due to our extreme interest in air safety, seeing that it is part and parcel to our profession. We as controllers want to be involved in any and all processes of change concerning the safety and capacity of the air traffic controller system.

The aviation safety problem in northern New Jersey is a result of a variety of problems. The first is one that unfortunately all of us know too well. We are stretching our meager resources to the breaking point. The air traffic safety system has been on a subsistence diet. We have been given just enough funding to carry out the bare minimum of duties, just enough to insure that today's and only today's level of air traffic can be handled safely. This is a very fragile balance.

If the air traffic levels rise, which they undoubtedly will, and the Government does not provide for more controllers, the system will be forced to operate at a narrow margin of safety. Because of its geography, northern New Jersey represents a unique and demanding problem for the air traffic controller. The proximity of the New York airports: La Guardia, JFK, and Newark; leaves Newark and the major northern New Jersey satellite airports—Teterboro, Morristown, and Caldwell, with three procedural problems.

First, there is extreme congestion of aircraft in a highly limited airspace. Second, single engine IFR aircraft cannot be routed over the water, so consequently, they must fly in the already overcrowded airspace at low altitudes. Third, there is very heavy traffic operating near and/or below the floor of the New York terminal control area [TCA] and above and below major routes.

As you can see, peak performance from the controller is constantly demanded to keep the situation from tumbling into chaos. The caliber and working environment of the air traffic controller, therefore, becomes all the more important if the system is going to function. Unfortunately, we need more experienced controllers in some areas.

Additionally, the traffic control environment cries out for change. We believe controller experience is not a problem at the New York/Tracon Newark sector. Approximately 50 percent of these controllers have prestrike air traffic controller experience. The average work experience at the Newark sector is 3 years, with the largest group of controllers at the 1- and 5-year levels.

However, I cannot make the same statement about the associates air traffic control towers in Newark, Teterboro, Caldwell, and Mor-

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ristown. The controllers performance, experience aside, is effected by the work environment. And we have some pressing problems in northern New Jersey that must be addressed, or we are going to lose some very good people.

The first involves the time demands placed upon the controllers. They are sometimes denied sick and spot annual leave, and are in some cases, forced to accept overtime. In fact, the only way for controllers to receive spot annual leave is to impose overtime on another controller. This is intolerable, and leaves the controller with little or no family life outside of the facility. This situation is due principally to staffing levels.

In the Newark sector, there is approximately one-half the number of FPL controllers as there was prior to the 1981 strike, while traffic has increased more than threefold. The controllers are also at loggerheads with the FAA over career progression. Advancement has been slowed to a snail's pace because of preferential treatment given to those employees who have spent time in FAA offices and are given promotions.

The controllers are not only overtaxed by the FAA's attitude and regulations, but are forced to use equipment that is by no means adequate for the task at hand. There are three glaring problems: First, the equipment we have is overloaded. During peak traffic periods, the ARTS IIIA computer system is stretched to the point of overcapacity; second, there is a radio communications deficiency. The controller is confronted with a lack of useable frequencies and an inexcusably undependable equipment; and third, the equipment at the local towers is antiquated.

Teterboro Tower has no certified radar or ARTS IIIA. Morristown and Caldwell have no radar; FDEP, which is flight data entry and printout; or ARTS IIIA. I cannot emphasize enough that the controllers cannot be expected to perform a highly sophisticated and technical job if they are not given the proper tools. This is simply logic that appears to have escaped the FAA.

The controllers working traffic in New Jersey are not only faced with staff and equipment hazards, but antiquated control procedures as well. This also applies to those employed by the New York Center. The existing procedures were designed for lower density traffic of another day and age. The New Jersey airspace was laid out around JFK and La Guardia Airports. What the planners couldn't foresee was that the air traffic around Newark now substantially exceeds that at JFK and is comparable to La Guardia's.

Northern New Jersey airspace has also been inundated by corporate aviation. These aircrafts are being forced to fly below the floor of the New York terminal control area due to current procedures. This is especially prevalent at the following three airports using the following incident approaches:

No. 1, is Teterboro, all of the approaches. The ILS/NDB Runway 6 approaches; the VOR Bravo approaches; the VOR-24 approach; and the VOR-DME/A approach. No. 2 is Morristown. The ILS and the NDB to Runway 23; the NDB to Runway 5 approach. And No. 3, Caldwell, the NDB Alpha and the NDB Runway 22 approaches.

The controllers are also encountering other procedural difficulties. TCA violations at a New York terminal control area are legion, and enforcement is nonexistent. Traffic management and

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flow quote in units are not in full operation at the New York Tracon, and experience levels are unacceptably low.

Additionally, controllers contend that the traffic management unit is ineffective with regard to Newark traffic. Controllers must still operate on the feast or famine principal of air traffic control, a principal that we find both dangerous and reprehensible. It is clear to all that levels of staffing in the Newark sector are inadequate to meet anticipated growth.

Mr. Chairman, in conclusion, let me once again state that the margin of safety in the Northern New Jersey airspace is being stretched to its maximum tolerance. We believe that the expanded east coast planning currently being implemented by the FAA does not fully address the problems we have mentioned. It may help somewhat, but regardless of the plan, any further cuts in funding, equipment, staffing, and procedural updates will quite simply push us over the edge.

I know that all of my fellow controllers, as well as the members of this subcommittee, do not wish to imagine the frightening consequences should the integrity of the air traffic control system be compromised. But we must look at the problems and find a remedy if we are to avert a major air catastrophe that may be waiting in the wings. The National Air Traffic Controllers Association stands ready to help find and implement that solution.

Mr. Chairman, we would be happy to answer any questions that you or anyone else might have.

Mr. MINETA. Thank you very much, Mr. Bell.

In your testimony you mentioned that antiquated control procedures that were designed to handle less traffic are being used in New Jersey and the New York Center. Could you elaborate on why the existing procedures cannot handle the density of traffic that now travels in this region, and how these procedures can be improved?

Mr. BELL. Well, it is my understanding that the procedures that we now use were designed for existing traffic conditions that were prevalent 5 to 7 years ago. The New York Center, which feeds all of our aircraft to us from all directions, is operating under those same antiquated procedures. They still feed us the same way with the airplanes that are coming into the airports. So, consequently because of these things, and consequently because the traffic in the Newark area has increased so much while Kennedy and La Guardia has not, we operate with less airspace than the other sectors in the room do. So, consequently, we are forced with a lot more airplanes and a lot less airspace because of the old procedures.

Mr. HICKS. To expand on that, when the procedures were developed, Newark was a slow, not much traffic route. So, our procedures were designed around JFK and La Guardia. Since, Newark is moving much more traffic now, our aircraft are usually at lower altitudes sooner to get under the La Guardia and Kennedy inbound traffic, and are exposed to VFR traffic at the Center time.

What the expanded east coast plan does for this, we don't know yet. We have not received any briefing, but that is partially the cause.

Mr. SHEEDY. And also the growth of corporate aviation in the northern New Jersey area, which associated with the growth in the

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economy, means Teterboro was mentioned before to have a reduction in traffic. But the amount of airplanes using the IFR system, I believe to have been increased.

I believe Teterboro used to be basically a general aviation airport, where you would go out on Sundays and fly your airplane around and enjoy yourself, which isn't the case anymore. And this is also adding to the problem, because we are feeding Newark arrivals, and Teterboro and Morristown arrivals are coming in over the same fix, which also adds to the congestion.

Mr. MINETA. Now, your testimony states that, "TCA violations in the New York Traffic Control area are legion and enforcement is nonexistent." Do you make this statement because you and other controllers are personally observing violations, and if so, are you reporting the violations? Who is responsible for the failure to follow up in terms of enforcement action?

Mr. HICKS. We do report the violations to our immediate supervisor, and then they take the action whether they want to file at that point or not. There is a form that they fill out with the aircraft call sign. Not always can we find out the call sign of the aircraft. If they are flying around, it is just a target that an aircraft reports an altitude, we try to track it and find out its destination and who it is—the call sign. And then have them give us a call. Then it is the discretion of the supervisor if they want to file it or not. From my experience, many of them are filed. Word goes from the supervisor; I am not privy to that.

Mr. BELL. Additionally, a lot of the VFR aircraft may call us at any given time, especially prevalent of course on the weekends when more general aviation flying is prevalent. Probably in my estimation 30 percent of the aircraft that do call us are probably either on the border of the TAC, or quite possibly in the TCA. At which time, the controller's responsibility is probably to advise him that he is in the New York TCA, and then tell the supervisor, and let him take it from there.

Also, of course, once he is in the TCA, to provide him the separation services that are required on us to do. But there are numerous violations and because especially during peak traffic periods, if we even just see a violator in the TCA, we would just take it upon ourselves to track that aircraft and to separate him the best we could from those IFR aircraft we are working, and then if the time is available after we are done moving the airplanes that we have to take care of at the present time, possibly track that aircraft. But it is very hard to do because we are oftentimes so busy that the supervisor can't even take the time to even track that aircraft.

But I am not trying to say that they don't try. They do try. Again, the supervisors have a workload that is very comparable to ours, of course, and very demanding. And they can't do everything either.

Mr. MINETA. Your testimony states that traffic management and flow coordinator units are not in full operation at the New York Tracon. Could you elaborate on the function that these units perform, and when you say that the units are not in full operation do you mean that they only operate at certain hours, or do you mean that the units are never performing all the functions that they should be?

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Mr. BELL. This is kind of a tough one unfortunately because we as controllers are not totally advised as to what even the responsibilities of the traffic managing unit is.

From what I can gather in the year I have spent in the Newark sector, is that these individuals are supposed to control the flow. Their motto with an ensignia on the back of their thing is, "We control the flow." Well, we—reverting back to the feast or famine situation that we mentioned in our testimony—I don't consider it a good operating flow of control procedure when we get inundated with airplanes between 7:30 to 10 o'clock in the morning at full capacity, and are running at points really overtaxed at times with the amount of airplanes. And then we sit for the next hours running just a minimal amount of airplanes. In other words, we have no flow in between that. We have the feast or the famine situation prevalent at times in the sector.

Is there anything you would like to add?

Mr. HICKS. If I could, the flow procedures take into account most of the air courier traffic. They do not take into account the low level type general aviation that they say comes down from Hartford to us, or alot of the air taxi operators.

So, we may put in trail restrictions, but this doesn't always work, depending on the day. And even though the air carriers have been requested to spread out their departure times and everything, from experience I can tell you that everybody wants to get out as early in the morning and in early in the morning, the morning rush. And midafternoon, there are still times. It is more constant now, but it is also with the increase in traffic, they have to fly at those times.

Mr. MINETA. Following the PATCO strike there was severe criticism of FAA's labor relations with the air traffic control system. And we have heard from a number of sources that relations between FAA management and controllers improved right after the strike. But that since then, the situation has deteriorated. I would appreciate your evaluation of the situation.

Mr. BELL. From my experience, and I speak for the other two that are here, we are new hirees after the strike. It happens that each of us have had prior experience in the military, and myself with a private air traffic control company. We are all familiar with the conditions that operated and were prevalent in the agency before the strike. And, of course, we are glad to finally get our chance to be in the FAA.

We came in with high hopes and high expectations that things would change, that management would be more understanding of the controllers' needs and of the equipment he needs to do the job properly. And human relations would be paramount in their aspect of controlling the work force. But I would say in my opinion, and in the consensus of the controllers in the Newark sector which present this testimony here today, that our feeling toward FAA high level management is as bad or worse than it was prior to the 1981 PATCO strike.

There are a lot of reasons for that which we can expound on. To save time, I would say that the prevalent and the primary thing is in the area of human relations. A good example is this meeting here. We did not find out about this meeting until last Wednesday.

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We did not find out that this meeting was being held as an opportunity for controllers to come and talk to you, but we found out through the grapevine through our national coordinator, John Thorton, in Washington, that there was going to be a meeting. And we asked him if he could get us in here so that we could speak to you.

As a matter of fact, on Wednesday or Thursday last week, we took the sheet that we got from Mr. Thorton, that the subcommittee sent out to him, and we advised the manager of the New York Tracon that there was a meeting. It is our understanding that he did not know about this meeting either. And this is the kind of thing we are talking about.

We don't feel like we are allowed to talk, and allowed to speak to you. We want to be heard. We want to help the situation, and this is just one example that I can cite.

Mr. HICKS. The committees that were set up to improve relations in the work culture: The Human Relations Committee; the Facility Advisory Board; they had good intentions, which is all and good. But what we have found out through experience now is that most of our suggestions are just taken under advisement. And as far as any tangible improvements, there has not been that many. Even what we consider compromises or reasonable requests.

Mr. MINETA. You were probably here earlier today when we had some of the other testimony. Do you have any idea as to how much additional staffing would be needed at the Tracon to safely handle today's traffic levels?

Mr. BELL. Well, we feel, as the controllers in the Newark sector feel, that the staffing that we have now, we are doing the job and we are doing it safely. We don't feel it is adequate to meet the needs of any anticipated growth. We heard mentioned that People Express wants to add 400 more flights in the summertime. We don't know how we'd add 400 more flights to the operation as it is right now. We are not saying that we can't do it, or we wouldn't do it. We are saying that we do the best we can with what we have, but we need more people to accommodate to work more positions.

What we have now is we have a basic three or four radar scope set up in the sector, it depends on which flow we are on. Prior to the strike, there was probably six or maybe even seven radar sectors that were running full time operations to handle the traffic they had back then, which was less than half of what it is now.

We also work continually without the radar hand-off procedure. In other words, another pair of eyes on the scope to help us watch out. And this condition, we definitely need to have more eyes on the scope, and we need to have the hand-off positions filled. So, whatever it takes to fill those hand-off positions and to provide the controllers a chance to have a day off every now and then and to be able to take care of their family business and not have to work the continual 6-day work weeks, we are going to need more people.

As to how many that is, we are not privy to that information. All we know is that we are allotted so many, and we frequently play the numbers games in the Tracon. We frequently have meetings where we are told that we are 85 percent staffed right now, but yet nothing changes in the sector. We still don't have the people to man the hand-off positions, and if we do, then we work 2 hours, 2½

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hours, or maybe even more, on position if we associate the hand offs.

Or you will work a radar position for an hour and a half, and instead of getting a break after that, you'll go right to a hand-off position. In some instances this is deemed as a break. Well, it is not a break. You are working the airplanes, and you are taking responsibility for them for a long period of time.

At this point in time, we are at a slower traffic period and the volume is not high right now, but come this summer, we are going to be at peak traffic volume. And I can guarantee the only way we are going to be able to do it is to work the overtime. And if you were to talk to the controllers after the previous holiday season, Thanksgiving and December, you would find that there is a lot of stress there and there are a lot of unhappy people because they were working 6-day weeks and our traffic volumes were up. And we in the Newark sector broke our previous record during those traffic periods. So, we need more people and we need to have more help working the radar positions. And we are at the mercy of the FAA to do this, except for what we can do in coming here to speak to you about our concerns.

Mr. MINETA. Thank you.

Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

Mr. Bell, Mr. Hicks and Mr. Sheedy, I wonder if for the record you could give us some background on the National Air Traffic Controllers Association, which you represent, and tell us a little bit about it.

Mr. Bell.

Mr. BELL. Yes, sir.

Since the decertification of PATCO and just after we were hired by the FAA, initially there wasn't a large growing concern for a union organization effort. Most controllers were not interested too much, to be honest with you, about it. Because we did believe that the FAA was going to learn from the mistakes that we at least read about and heard about from being on the outside that they had with PATCO and dealing with the controllers. So, I speak for myself now, I honestly believed that the FAA which I was going to be a part of, which I always wanted to be a part of, was going to be that topnotch organization. And I still believe it is. I think it is the best in the world. Don't get me wrong, I am not here to bad-mouth the FAA because I support it and I support the director and the management.

But we have been unable in the past 4 to 5 years to communicate our desires to management, especially upper level management, the way that we think that we have to. We feel that we are deserted in many areas. So, that bore fruits into the organizing of another union to speak for us. Or another group to speak for us, to talk to you people, to talk to Congress in Washington, and whoever else we can talk to and let them know what are concerns are.

So, several efforts were organized over the past few years, and little interest was given. And I think especially since traffic volume has picked up in the New York area, and particularly the northern New Jersey area, the controllers at Tracon are finding that the screaming we are doing to management, and all the things that we

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try to do within the system are not working. So, we have to get somebody to speak for us, to represent us at these types of meetings and in Congress.

So, we were contacted I guess over 6 months ago by the Marine Engineers Beneficial Association, who represent the National Air Traffic Controllers Association, and were asked if we were supportive of this situation. And we got together a group of controllers in the sector, and decided that we needed to try this. And we are at the present time organizing the controllers in the entire New York Tracon in that effort, just so that we can have voice in what is going on.

Mr. HAMMERSCHMIDT. I appreciate your response, and I assume that you are talking for your two colleagues that are here as well as those listed on the attachment to your testimony?

Mr. BELL. Yes, sir.

Mr. HAMMERSCHMIDT. The question I want to ask each of you individually for the record is how long have you been air traffic controllers, and how long has your duty station been in this area.

And would you answer first, Mr. Bell.

Mr. BELL. Yes, sir.

I have been an air traffic controller for 12 years. My prior experience was spent in the U.S. Air Force where I served in several towers in several approach control facilities in the various parts of the country.

In August of 1981, when the controliers went on strike, I was living in Arizona. And at that time I was asked to be employed by a private air traffic control company, called Barton Air Traffic Control Inc., at a local tower there in Arizona. I worked there for about a year. At this time, I was on the hiring list for FAA, and during the time of my work for the private company, I was contacted by the FAA and was told that they had a position for me, and I went to work in April of 1982.

I started at the Ontario Tracon in California. I was there for 9 months. I resigned from the FAA because I couldn't move my family from my present home in Arizona to California. And I was reinstated 9 days later at my hometown in Omaha, NE. I served at the Omaha Radar Approach Control for about 2½ years. I was fully certified FPL controller there. And from there I sought career progression, and the New York Tracon was at the top of my list as far as those facilities which could provide me with the experience to progress my career. So, I applied for an appointment at the New York Tracon. I was accepted. I got to the New York Tracon in January of 1985, and have been working there ever since.

Mr. HAMMERSCHMIDT. Mr. Hicks.

Mr. HICKS. My previous military background started in 1977. I was hired in 1981 right after the strike at the Anchorage Center. And then in November of 1984, I came to the New York Tracon, and have been an FPL since June of last year.

Mr. HAMMERSCHMIDT. Did you have on-the-job training?

Mr. HICKS. Yes, on-the-job training throughout all phases of that in each assignment.

Mr. HAMMERSCHMIDT. And you became certified in that manner?

Mr. HICKS. Yes.

Mr. HAMMERSCHMIDT. Mr. Sheedy.

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Mr. SHEEDY. I have 4 years in the Air Force as a radar air traffic controller. I was hired by the FAA in January of 1982. I spent 2 years in Lake Charles, LA, and hired into the Tracon in September of 1984, and I certified in March of last year.

Mr. HAMMERSCHMIDT. So, you were a fully experienced controller, but you also came to be certified on the job?

Mr. SHEEDY. Yes.

Mr. HAMMERSCHMIDT. On the equipment problems caused by overloads during the peak traffic periods that you mentioned, do you have any solution to alleviate the problem or situation? Do we need additional equipment, or is the equipment not capable?

Will you comment further on that?

Mr. HICKS. The problem that we have is a software problem. It is computer capacity. And when we have a good weather day, and we get a lot of VFR targets flying around, the computer exceeds capacity. It starts slowing down. So, it only acts on a certain speed, and allows so much data to pass through it. So that slows down your ability to move your air traffic because the automation is slowing down on you.

And you cannot initiate a hand off as fast, and other functions such as that that are required to move traffic safely and expeditiously. And that is not only with the New York Tracon, that is with the New York Center. And there has been a computer on order, from what I understand, for the New York Tracon. And on top of that, the advanced automation for the en route centers.

But for us, we are looking at probably 2 years at least, that is what we have been told for the New York Tracon in the early 1990's. Right now it is a definite problem, especially for the en route control centers. We have a lot of times where the computer dumps completely, and the traffic just exceeds capacity of the computer to keep up with it. And it is not that uncommon, especially for the en route centers.

Mr. HAMMERSCHMIDT. So, I take it from what you are saying that if the equipment was more efficient and the software was more efficient, than perhaps the personnel would be adequate?

Mr. HICKS. That is not necessarily true. Right now, we get into situations where we have to stop departures from all kinds of airports. We may get a call from a center that their computer went down, and immediately we stop everything on the ground until their computer comes back or until they go to their backup radar system. And then everything has to be slowed down because they can't work the traffic as fast, and our restrictions increase.

Now, when the computer is working normally, we can run 5-mile separation. And there is just so much airspace and just so many airplanes that you can fit into it. And during certain times of the day, we just fill it. And there really is no other place to put it. The air traffic that is up there right now, we do get it in. Sometimes it is delayed, but it is just basic relativity that you can't fit too many airplanes. There is only so much air traffic that can be accepted to any given airport.

Mr. HAMMERSCHMIDT. So, no amount of additional controllers would necessarily help that particular situation?

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Mr. HICKS. Right, but we do need more people to add an extra degree of safety. That extra pair of eyes that could help you out of a situation right now.

Mr. HAMMERSCHMIDT. I yield to the chairman.

Mr. MINETA. When the radar goes out, what do you do then?

Mr. HICKS. For us at the New York Tracon, what we do is we have backup systems. We can feed off the Kennedy radar and punch that out. But let's say if we had no radar, we would have to go nonradar procedures.

And what I would do is as long as we have our frequencies, which are obviously the most important, we can get aircraft at different altitudes, advise the en route centers that our radar went out and we cannot accept anymore aircraft, and get the aircraft we can on the ground. And then we would go to nonradar procedures, if it came to that. But we do have a backup radar, and that has not happened since I have been there, and as far as I know, nobody that I know there ever recalls it happening.

At the center there is what they call a Darc System. I am not really familiar with it, but it is a different system they go to and I am not quite sure how it works. But the restrictions feeding to the center increase. We cannot work the traffic as fast. But it is just as safe, and that is why we back off with the greater restrictions on it.

Now, if the radar completely goes down, they go to nonradar procedures also, and everything really backs up quite a bit.

Mr. MINETA. The Darc System, is that the predecessor to RS3?

Mr. BELL. No, that was developed after RS3.

Mr. MINETA. OK, thank you.

Mr. HAMMERSCHMIDT. Mr. Chairman, I don't have any further questions. We appreciate your appearance before us, gentlemen.

Mr. MINETA. Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman.

I wonder if you could share with us anything that you might have heard or been told concerning future staffing levels of controllers in our area at any one of the airports or generally. Have any proposed cuts or increases been mentioned to you? Do you have any awareness of what the situation is going to look like 6 months or a year from now?

Mr. BELL. Specifically, in our sector, we have been advised that there are controllers coming into the Tracon to our sector within the next month or two. The numbers, I couldn't really give you because they change from day to day. And it is usually not until the last minute that we do find out. When there are students sitting in the classroom in the lab, then we know how many we are going to get.

Mr. TORRICELLI. The adjustment to the budget numbers is what concerns me. People have told me that with the declining budgets, Teterboro could be due for a reduction in the number of air traffic controllers they have.

Has anything been said to you?

Mr. BELL. As far as Teterboro, no. And to be honest with you, I will be sorry to say that it is the controllers in the Newark sector of the Tracon who work with Teterboro on a daily basis, do not know much about what is going on over there as far as staffing.

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Mr. TORRICELLI. So, if there were going to be a decrease, you wouldn't know about it?

Mr. BELL. I don't think we would know about that.

Do you concur with that?

Mr. HICKS. I would say that as far as we are concerned, there is nothing more than rumors, such as overtime being cut out completely, which would greatly decrease the ability on us working traffic, and as we see it in the sector, we would have quite a few delays because we do have a couple of people each day on overtime that mean a lot.

Mr. TORRICELLI. The personnel standards and equipment standards by which you operate now, how would they compare to each of your military experiences?

Mr. BELL. I would say they are much more sophisticated.

Mr. TORRICELLI. Which is?

Mr. BELL. The FAA's equipment is much more sophisticated than the military equipment in my experience. Generally, I always found that in the military we were probably 2 to 3 years behind what the FAA had. And it seems, and this is not a definite fact that I know for sure, but it seems like when the FAA's equipment was used, it was passed down to the military or something in that order.

I never worked with the RS3 system in the military, and very few systems in the military have that. I know McGuire approach control has that equipment because we make interphase hand off with that facility, so they would be one military situation where they have the same equipment that we do. But as a general rule of thumb, I think they probably don't have as much of the modern, updated equipment as the FAA does.

Mr. TORRICELLI. There has been some discussion here today on the appropriateness of continuing visual flights in the congested areas over northern New Jersey. Can you comment on what you think the safety considerations of that would be, and if you could influence the FAA whether to continue to allow the visual flights for small aircraft over these heavily populated areas, what would tell them?

Mr. BELL. In reference to VFR aircraft, our duty priorities afford us certain parameters which we have to follow, and of course, we are mandated to take care of the IFR aircraft that we have and provide them a safe and expeditious flow of traffic first. And then, if we can accept the additional quantity of VFR aircraft, then we take them.

Mr. TORRICELLI. I am asking you to make a policy judgment. If you could now rewrite the maps on whether to continue to allow visual flying over heavily populated areas of northern New Jersey, or over heavily populated areas over New York City, would you allow that kind of flying to continue because you see no safety impediment, or would you argue that the day has come where given the congestion of instrument controlled aircraft we just can't allow this to go on?

Mr. HICKS. My opinion is that I would first go to a program to try to make the general aviation public more aware of what the TCA is all about and what we can do for those people. Hopefully, along with that we would have increased staffing levels to actually

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staff a position strictly for TCA/VFR aircraft. So, we could provide a better service.

Mr. TORRICELLI. Yes, but that isn't going to happen.

Mr. HICKS. Well, it was prior to the strike.

Mr. TORRICELLI. Dealing with the budget realities as we now have them, it is unlikely that there will be great increases of personnel and you know the equipment situation.

Should we allow the current rules to continue over these heavily populated areas?

Mr. BELL. If I can address that, in response to that I can only say that what we have presently is not going to work because when we don't work the VFR's, they are going to go where they have to go whether they bother with the TCA, we don't know all the time.

But we think that there are better ways that it could be done, and there is a good opportunity to do that. I will use an example that they do in southern California, because I worked there. They have what they call preferential departure routings, and they have routes that are flown by VFR aircraft. For example, if a VFR aircraft wanted to take off at Teterboro and he wanted to go someplace, he was given a quasi-IFR clearance, that is, that he would be controlled from the airport—given a release like an IFR aircraft would be. He'd fly a predetermined VFR routing on an airway out of the system which could be managed safely. As it is today, they jump off the airport, call the controller, if and when he has the time, he may get the service. If he doesn't, then he is not going to get the service.

Mr. TORRICELLI. And it is chaotic then.

Mr. BELL. It is chaotic, I would have to say that, yes.

Mr. TORRICELLI. So, the concept is that while you permit the visual flying aircraft to continue, they are on highways in the sky, rather limited corridors, as opposed to this chaotic situation.

Mr. HICKS. And it is very effective for southern California.

Mr. BELL. Yes, it works great. And they have corridors designed for aircraft to go through where they keep the IFR's out of there. We don't have that here.

Mr. TORRICELLI. And this to you would be an enormous improvement over the current situation?

Mr. BELL. Yes.

Mr. SHEEDY. In addition to what Mr. Bell has mentioned, I think we at the FAA need to get on pilot education. Northern New Jersey has a wealth of flying schools I believe between Caldwell and Morristown, as you get down toward Trenton, Princeton, and a couple of the smaller airports down there, with the economy the way it is, people are going out, they have the money and they are learning how to fly.

And you are getting some guy with 20 hours calling you, and I have had this happen, at 2,000 feet 5 miles south of Newark Airport, when I am landing that way, and he has no idea that he is there.

Mr. TORRICELLI. Well, putting a student pilot over northern New Jersey is like taking a student driver on the turnpike.

Mr. SHEEDY. Yes.

Mr. TORRICELLI. It would make no sense at all.

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Your suggestion though, is appreciated, because it is a good compromise between the desires of the general aviation and the public's desire for safety.

Mr. SHEEDY. The FAA does have a program. I don't know if it is very current or anything. They call it Operation Raincheck, which was more or less a pilot education program about the intricacies of the local air traffic system and so on and so forth. And I think we as FAA's need to pursue that just that one step further. Even if it is, which it totally is, for the user's sake. For everyone involved, because whether we get the preferred arrival and departure routes, whether we get TCA parameters changed, but in the interim I think this would be an excellent thing to pursue.

Mr. HICKS. If I can expound on that a little further, we as controllers, and I think I can speak for Mr. Sheedy and Mr. Bell, are more than willing to offer some of our time to do this. Because the better we get to know each other, the safer the skies are.

Mr. TORRICELLI. Do you consider the growing volume and proximity of Teterboro and Newark Airport a matter of safety concern?

Mr. BELL. Yes.

Mr. HICKS. Yes.

Mr. SHEEDY. Yes.

Mr. TORRICELLI. You do.

Because the traffic is incompatible, or give me the nature of your concern?

Mr. BELL. Well, one of our comments was that we are operating a numerous amount of aircraft below the floor of the TCA. Just for example, on the aisle 6 approach to Teterboro Airport, those aircraft operate at 2,000 feet and descend at 2,000 to 1,500 feet, which takes them out of the TCA and mixes them with whatever else is in there.

Additionally, when we are on the other flow, and the approaches run from the north on the VOR Bravo, they base fly some of IFR aircraft below the TCA at 2,000 right through some of the major VFR practice areas in the area. There are days when it is just unbelievable the amount of uncontrolled traffic and unidentified traffic that the controller has the call that the IFR traffic in and around that area and on that approach to Teterboro.

Mr. TORRICELLI. This then is a significant safety concern for you, the mix of the traffic?

Mr. BELL. Yes.

And every controller wholeheartedly is unhappy with that approach. Not for our concerns, but because we are concerned about the pilot's safety.

Mr. TORRICELLI. Would you then each endorse my concept of an additional regional airport for general aviation to move the flying public further out of harm's way, giving them a place for takeoffs and landings not in proximity of these major airports?

Mr. BELL. Yes.

Mr. HICKS. I would.

Mr. TORRICELLI. Thank you, Mr. Chairman.

Mr. HAMMERSCHMIDT. If I may, let me just pursue that a little further. Talking about that same subject, but specifically with respect to this midair collision that happened that actually brings us here today.

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You had a situation where a faster jet tookoff and Tracon had him under their surveillance for take off, and then they handed him off to the tower. And then the lighter airplane was never in touch with Tracon but was in touch with the tower.

Was that the situation?

Mr. BELL. That is my understanding, sir.

Did you want us to expound on that?

Mr. HAMMERSCHMIDT. No, I am just trying to understand exactly what happened.

Could you see that lighter aircraft from the Tracon, or what is your responsibility there?

Mr. BELL. I really can't respond to that, especially because the controller that was involved in working the aircraft is in our sector, and we have agreed to stay clear of those boundaries in his favor.

Mr. HAMMERSCHMIDT. I really don't want to get into that very deeply myself because that is NTSB's jurisdiction, but I was just trying to understand. That is what happened, you had the IFR airplane, and the VFR airplane was just under the tower's control.

Mr. BELL. That is my understanding, yes, sir.

I can say that if Teterboro had radar equipment in there, and they had controllers that were certified to use it, that that might have very well been prevented. No doubt about it.

And I would also like to say that I can remember 2 years ago before I came to the Tracon I took an aviation safety accident investigation course, and I just happened to be handed an NTSB report on an accident that took place over the New Jersey Meadowlands several years ago involving a helicopter and another aircraft which resulted in a fatality. And the findings at that time, 2 or 3 years ago, was that there was no certification of controllers for radar in that tower and that there should be.

I am not saying that that is the conclusive findings, but that is what I got out of the report. And when I got here to the Tracon, I thought that was what they had. I just assumed that since this accident and because of that tragedy that there was the proper equipment now and certified controllers in that tower. And when I got to train in the sector, I was amazed that that was not the case. They didn't have it. They have it, but they don't use it because they can't use it. They are not trained to use it. So, I thought that was a severe thing in my case, which makes us, as controllers in the sector, because I think previous testimony has stated that we are responsible for these IFR aircraft that they get to the ground.

Since the accident has happened, procedures have changed in our sector as to working the airplane into Teterboro, which I can comment on further if you want, but some of these are distressing too. So, we are not exactly sure of what the answers are ourselves.

Mr. HAMMERSCHMIDT. We won't pursue that here. In later hearings, I am sure that we will want to go into things like that more in depth.

Thank you, Mr. Chairman.

Mr. MINETA. Mr. Bell, Mr. Hicks, and Mr. Sheedy, thank you very much for your taking the time to appear here today. We appreciate it very much.

Mr. BELL. Thank you.

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Mr. HICKS. Thank you.

Mr. SHEEDY. Thank you.

[National Air Traffic Controllers Association information follows:]

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NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION
MEBA/AFL-CIO
80N Suite 800 • 444 North Capitol Street, Washington, D.C. 20001 • 202/347-8585

March 3, 1986

The following is a list of those air traffic controllers whose testimony was offered in support of the preceding written statement. Additionally each controller listed below supports the preceding testimony and chose freely to endorse the efforts of the National Air Traffic Controllers Association in this particular effort.

AIR TRAFFIC CONTROLLERS OF THE NEW YORK TRACON, NEWARK SECTOR IN ASSOCIATION WITH NATCA:

Michael Santos
86 Oak Ridge Drive
Bay Shore, New York 11706

James Barth
33 Clinton Street
Seacliff, New York 11579

Ed Sosa
191 Jamaica Blvd.
Carle Place, New York 11514

Robert S. Bell
182 Parkside Ave.
Miller Place, New York 11764

Christine E. West
40 Ledgewood Dr.
Smithtown, New York 11787

Joseph G. O'Brien
92-15 245th St.
Bellrose Terr., New York 11001

Michael Sheedy
48 Rustic Ave.
Medford, New York 11766

Brian Clifton
32 Chimney Lane
Levittown, New York 11756

Ronald Fisher
761 Jerrings Ave.
West Hempstead,New York 11552

D. Smecken
12 Return Lane
Levittown, New York 11756

Bryan J. Hayes
163 Bay Ave.
Patchogue, New York 11702

Alan Hendry
455 East Drive
Copiague, New York 11726

Michael S. Meyers
57 Ridgewood Ave.
Holtsville, New York 11742

David Harvey
71-40 260th St.
New York, New York 11004

Joel B. Hicks
98 Harrison Ave.
Miller Place, New York 11764

Robert Birch
102 Lakeview Ave.
West Islip, New York

Thomas White
120 Uncas Street
Ronkonkoma, New York 11779

Robert Schmid
199 Hawthorne Ave.,Apt.#50
Central Islip, New York

Karl Jiricek
4 Dover Ave.
Massapequa, New York 11758

Charlotte Happle
131 Gordon St.
Clifton, New Jersey 07011

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Mr. MINETA. At this time, I would like to call on the Honorable Susanne Wilson, chairwoman of the Santa Clara County Board of Supervisors. Ms. Wilson is an old colleague of mine from city council days in San Jose, CA, but she has now gone on to bigger and better things, now chairing the board of supervisors at the county level in Santa Clara County.

Susie, welcome to Cliffside Park, NJ. Please proceed in your own fashion.

TESTIMONY OF HON. SUSANNE WILSON, CHAIRWOMAN, SANTA CLARA COUNTY BOARD OF SUPERVISORS, CALIFORNIA

Ms. WILSON. Thank you.

Good afternoon, Mr. Chairman and members of the Subcommittee on Aviation. I want to congratulate Mr. Mineta, for he too has gone along to bigger and better things since he has been mayor of San Jose to the Congress of the United States. It is a privilege for me to be here this afternoon to share some of our experiences and ideas pertaining to airport safety in Santa Clara County.

I am sure that the citizens of Santa Clara County have the same or similar concerns as the citizens of New Jersey. I would like to briefly describe the patterns of airport usage which exist in my county. And as I do so, I will refer to the specific methods that we have employed to improve safety.

In Santa Clara County, there are four airports serving general aviation needs: South County; Reed-Hillview; and Palo Alto Airports are all under the jurisdiction of the Santa Clara County Transportation Agency under the board of supervisors of the county. San Jose International Airport serves both general aviation and commercial jet carriers and is operated by the city of San Jose. Norm Weitz ran that airport in San Jose, along with my help.

The growth of airport operations in Santa Clara County has increased dramatically since 1960. Roughly paralleling the population and economic growth of the same period. Between 1960 and 1983, the number of based aircraft in the county increased from less than 400 to over 2,000. Operations in 1983 and 1984 have both shown increases over previous years.

Our airports are dispersed geographically throughout the region Palo Alto Airport is located at the north end of the county between the development of office buildings and electronic firms and San Francisco bay lands. Nearby is the Moffet Field Naval Air Station. A cooperative agreement has been worked out by the two airport/air station towers regarding communication and handling of landings and takeoffs at both airfields.

To service the southern part of the county, and as a reliever airport to serve overflow demands from northern and central Santa Clara County, South County Airport was opened in 1972. To protect the public, land use in the vicinity of the airport are carefully regulated. More carefully today even than 20 years ago. Open space land around South County Airport are currently leased for agriculture purposes. The area near the runways and the clear area zones are mowed for hay. Row crops, such as strawberries, are grown in the southern corner where the tie down area is located. South County Airport is an uncontrolled airport. Estimates of the number

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of annual operations vary from 55,000 to 80,000; 80,000 operations is a worse case estimate. There are up to 117 based aircraft at this airport.

The South County Airport and land surrounding it lie within an unincorporated area of Santa Clara County, and have a land use designation as transportation. Included in that zone, is the South County Transit Maintenance Yard for county buses. The county general plan then designates the area beyond that surrounding the airport as rural residential. Calculated aircraft noise levels surrounding the airport are not classified as critical by the noise compatability standards of the county noise element, nevertheless, there has been a number of complaints registered by the residents around the South County Airport for noise intrusion into the surrounding area.

Due to neighborhood concerns as regard to noise and safety, I as their elected Representative formed a good neighbor committee of neighbors to the airport, airport personnel, and transportation agency staff. The committee hammered out mutually agreeable standards as to such items as future housing development and noise disturbance reporting procedures. As evidence of the county's concern to cautiously plan land use through this airport, the board of supervisors has recently required that two general plan amendment proposals regarding this area be deferred for further study.

The two proposals would have included intrusion into our locally created Airport Land Use Commission Safety Zones. One proposal would have intruded into the less dangerous zone, Safety Zone 2, and would have included a motel/truck stop design. Several items in the proposal, such as plans for the above-ground fuel storage tanks and multistorage motels will probably have to be changed before the board would consider approving that kind of land use in the Safety Zone 2.

The other general plan amendment would intrude not only into the Safety Zone 2 area, but also the more dangerous area, Safety Zone 1. This proposal was for a used car sales lot. Only the parking lot for this facility would currently qualify for the Safety Zone 1 area under our present ordinances and zoning regulations, as well as the rules set down by our Airport Land Use Commission.

The airport that has generated the most publicity in our county is Reid-Hillview Airport. This airport is located in San Jose, and was originally constructed as a privately owned public use facility in 1939. It was purchased by Santa Clara County in 1961 and has since been extensively improved. Now, Reid-Hillview is one of the area's busiest airports. Of the 18 publicly owned general aviation airports in the 9 county San Francisco Bay region, Reid-Hillview has the greatest number of based aircraft. It occupies 179 acres and includes two parallel runways, each 3,100 feet long and 75 feet wide.

The be a good neighbor policy established by the Santa Clara County Transportation Agency states that there will be no pure jet aircraft and no returns below 500 feet. The agreement also specifies that pilots climb straight to 2,000 feet when leaving the traffic pattern, and that there should be no touch and go landings between 9 p.m. and 7 a.m.

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Reid-Hillview Airport is licensed to operate 24 hours a day. The land uses surrounding Reid-Hillview Airport range from very urban inclusive uses, much more so than in south county. They include a regional shopping center, directly south; an expressway and open space park on the east; a large tract of homes and small shopping centers to the west; and an elementary school and junior high school to the north.

Within the past 10 years, there have been two fiery crashes resulting in death to the airplane occupants in the school yards. Fortunately, the schoolchildren were inside and off the playgrounds at the time. Approximately about 5 years ago, a pilot suffered very minor injuries when he landed on top of Macys and Sears at the regional shopping center located at the south end of the Reid-Hillview Airport. Fortunately, in this case, Macys and Sears were closed for the night.

Due to these accidents and other neighborhood concerns, we have limited the activity levels at this airport beyond 400,000 annual operations. We have also reserved the westerly side of the airport for an open space buffer and relocated a farm. This past December, we again experienced an airport crash at the regional shopping center near Reid-Hillview Airport. This was shortly after the more dramatic life taking crash in nearby Concord, CA. The pilot in this shopping center accident crashed into a loading dock, and escaped with minor injuries.

This incident and the result of public outcry has brought about a new safety study that may lead to a number of possible recommendations ranging from purchasing property around the airport to the moving of the airport to another location. As you can see, in California, we have the same airport safety concerns as you in New Jersey. We also, like you, are struggling to deal with the need for safe airports in an area of growing population.

I have spoken of some of the solutions we have used, such as cooperative agreements, good neighbor committees, land use restrictions, airport operation control, and others. I hope that the Santa Clara County experience will be of some help to you as you consider the options available for other airports.

At this time, I will be pleased to answer any questions that any of you might have.

Mr. MINETA. Thank you very much, Susie. In your testimony you mentioned safety zones and other agreements involving the Airport Land Use Commission. Could you further describe the functions, composition and the history of the Airport Land Use Commission in California and Santa Clara County, as well as its particular strengths and weaknesses in assuring compatible land uses surrounding airports?

Ms. WILSON. The Airport Land Use Commission was formulated by legislation from the State, and the authority functions through the County of Santa Clara. There are five members who are city council members, a county supervisor, and public members that examine the land use around the airports that are in the area. Those four airports. They have the ability to make recommendations to the appropriate body as far as the use around those airports. They will not allow and will not recommend a density that will have nu-

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merous people involved without the appropriate safe building, without added reinforcement to the building.

A motel can be in an airport zone, if indeed it is structured so that it will withstand a crash. So that, they examine not only the architecture and the height of the building, but how many numbers of people will be in the building before they make a recommendation as to whether they will allow that use that close to the airport. They are not binding recommendations. A city council can overturn the recommendations of the Airport Land Use Commission, which is a weakness, because we have asked them to give the consideration. They make the request and make the recommendation to the planning commission, whether a county planning commission or a city planning commission, as to what should be land use in that area.

The board of supervisors of the city councils can override the Airport Land Use Commission, and that is probably a weakness that I see. But at the the same time, there should be concerns as to whether litigation measures can take place so that the use can take place within that zone. So, I think there is always tradeoffs. I believe that there should be appropriate strong litigation if indeed the city council and the board of supervisors is going to overturn the Airport Land Use Commission ruling.

The commission was formed in about 1970. I think today there is more emphasis placed on the recommendations that was placed years ago. And I think that the South County Airport has a chance of being a much safer airport for the future than Reid-Hillview. After Reid-Hillview became a city airport, the County—and I was not a Supervisor at the time—built a regional shopping center next to it. And then it was annexed into the city of San Jose. So that there are weaknesses that I would like to see strengthened in our Airport Land Use Commission.

Mr. MINETA. You have noted that for the South County Airport, the airport operator is also the body with jurisdiction over land use and zoning around the airport. This is not the case for Reid-Hillview Airport, where you just said the surrounding land uses are determined by the city of San Jose. Now, how does the role of the Airport Land Use Commission differ in these two instances. Is safety better protected in one case than the other? How early are airport operations and safety considerations brought into the land use decisionmaking process in each instance?

Ms. WILSON. Unfortunately, most of the land around Reid-Hillview Airport, the land uses were already in place by the time the Airport Land Use Commission became an entity in our governmental structure. And I think that is one reason that South County has a better chance of having more protection.

I think at the time also in the early 1970's, there was just beginning to be a serious consideration for the environmental safety concerns around the airports. So it appears that we have grown in our understanding.

I think there is a much better opportunity for land use around an airport to be safe if the airport and the land use are under the same body. I think that is why in South County where the supervisors are accountable for the land use and accountable for the safety of the airport, one will be much more observant about what hap-

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pens. But in the case of the county, having the airport and the city owning the land around that airport or the jurisdiction around that land, there isn't the same kind of concern.

I think, in the case of San Jose Airport, the city of San Jose struggled, because that is also a general aviation airport, and they struggled with both the land use and the operation of the airport in the 1970's. And indeed, had to start purchasing land because of the jet airplanes that came into that airport, to try and make it a safer airport. They abide by the restrictions governing the heights of buildings which the FAA is involved in.

Although in one case recently the city of San Jose got a dispensation for a taller building on the edge of that flight approach into San Jose. So there are still people who are trying to intrude into what I consider to be safe areas of airport use. It is better to have the city or the county be able to have jurisdiction over the land use and the airport. I think you will have a safer situation when that occurs.

Mr. MINETA. Now, from wearing your two hats, that of a land use planner and that of airport operator, how would you suggest improving the current system?

Would you propose a different role for the FAA? What about the State's role? Are there financial incentives that would serve to improve development controls around airports, or would a regulatory approach be as effective?

Ms. WILSON. Since we are going to be brainstorming, I would say that if in the land use planning for a county where we have several kinds of land use jurisdictions—in my particular county we also have the intergovernmental council. That if you could clearly plan and determine the use of a general aviation airport, the extent of its use, then mark off that zone, which can be your footprint for the airport use, and then have that designated that the plan and the land around that airport be given to the jurisdiction that is going to be running the airport.

Not the taxes, it belongs in the city of San Jose. But that the airport itself and those uses be determined either in a joint city/county body that has more control. Give the Airport Land Use Commission more control over the land use around that airport. We do not have adequate control when you have the split jurisdiction. And you either need to strengthen one of several jurisdictions. Either land codes to prevent the use of that land to be annexed to cities that are not going to control the airport, or the Airport Land Use Commission having more land use power and delegating that power to them and having both the city of San Jose and the county have two supervisors and two city council members and one public member serve so that you have a firm jurisdiction that is a binding jurisdiction.

Or that you have an intergovernmental council, which is made up of all the cities, make recommendations as far as land use that could be binding. I think that we don't have enough joint consideration for land use around airports.

Mr. MINETA. Given the number and mix of general and commercial aviation airports in the San Francisco Bay area, a complex not much different from the New York City/New Jersey area, have there been any efforts on the part of the region, State, or localities,

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to view the airports as a total system and to shift traffic around in a manner which maximizes safety both for nearby neighborhoods and airplane passengers and pilots?

Ms. WILSON. We have a regional Rap Seats, it is a regional airport commission that is a part of ABAG, which is the Associated Bay Area Government. And they have looked at airports, and they have looked at the need of airports. And they have made a projection about the need into the future, and since 1973, when I was on Rap Seat at that time, they said there would be a need for more airports in the bay area region. They have searched the places where there could be more airports, and that has failed. I heard a Congressman testify as to the need of another airport in this area.

I can say that in the San Francisco Bay region, there are going to be no new airports built. That the city appears to turn that down time and time again. And nobody wants another airport in their neighborhood. So, maybe you have a different in New Jersey, but you are not going to find one in the San Francisco Bay region. There was a Federal Air Force base up in Marin County that they tried to get as a general aviation, and another airport Rap Seat recommended. I can't remember the name of that base, but it failed miserably. There was such a public outcry that that airport could not be turned over to the city or to the county for general aviation use. It just would not be done.

Mr. MINETA. Travis Air Force Base?

Ms. WILSON. Travis, yes.

There is some cooperation, and I am sure you probably know more about the cooperation of some of the Oakland and San Francisco airports than I do. The only way that we have tried to look at it is at the county level, we try to look at our three airports that we have jurisdiction over, and try to have South County as the airport that we will see we relieved some of the needs of the general aviation in Santa Clara County.

I think its future will be one of a business airport as business needs and industry moves to South County. And it will be an airport that will be a busy airport in 15 years, and it is up to us to make sure that it is going to be a safe airport and that the airport is protected and that the citizens are protected. And that we not allow the wrong kind of land use around that airport.

I believe, frankly, that we should have free zones that there is no land use involved except airport use. And that would be the safest kind of airport as far as I am concerned.

Mr. MINETA. Thank you.

Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

I want to join our chairman in thanking Ms. Wilson for being with us today. She brings a lot of experience at the local level in a fast growing area, like the fast growing area here that Bob Torricelli represents. So, there is a certain similarity here between the two concerns.

I wonder since you have established that Airport Land Use Commission in 1970 in California, have they had full cooperation with the FAA. And the other part of that question is have many of their decisions been made in conjunction with the FAA and then overturned by local governments?

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Ms. WILSON. I can't speak to that aspect of it. I don't think they have ever made any recommendations that the FAA did not approve of. I don't know how closely they work together. I am not on that commission.

I know that we have not overturned any decisions. There was one a year ago where there is an existing plan in the airport land use pattern in South County. Their county use permit was up. They allowed the use permit to continue, whereas the Airport Land Use Commission had said that it would not be safe if the airport expanded. So that we made a condition on that use permit that if South County Airport ever installed a second runway, and that is not in the master plan, that county use permit would have to cease. So, we have tried to look into the future, but we have allowed that use to continue. And so, even though we overturned the recommendation, it was given as far as safeguarding the future. We said let it stay now, but if the increase in the airport use occurs, then it would have to stop its operation there because it would no longer be safe.

In San Jose when I was on the San Jose City Council, we followed the Airport Land Use Commission in its recommendations. One was for a motel that was going to be in Reid-Hillview; one was for a shopping center complex, and we turned them down. We said it could not be safe. They came along and said they would soundproof the areas, and at litigation measures where we were told where we had to do what they said, they said it would cost too much and it would not be possible. And we said it would not be livable for the people who came there if you can't make it possible, then we suggest that you go someplace else. Because it also has to be livable.

Mr. HAMMERSCHMIDT. In Washington, you may be familiar with this, there are two high buildings that have been built recently over in the Arlington section. They are 25 or 30 stories high. I am not sure that this is correct, so I won't say it for the record, but I think that the FAA recommended against building those, but ultimately the local planning commission over in Arlington allowed them to be built. And they are not in the flight path, but they are not far laterally from the flight path along the river approach into Washington National Airport.

And I know the Chairman of the National Transportation Safety Board said that those buildings were just a disaster waiting to happen. I hope, of course, that he is wrong. But it is things like that that give us cause for thought about land use planning and how much FAA ought to be involved and how much jurisdiction they ought to have in the process. I guess you can't preempt local governments, but yet it is important that FAA be involved in the planning.

Ms. WILSON. In San Jose, our height limitation is 14 stories. And the city of San Jose is real careful and the planning commissioners in the city of San Jose always acknowledge and recognize that.

When I said there is one exemption, it was for 1 story to 15. And that is as a high a building as we have because our airport comes right through and over downtown, so that I don't know, it is really up to the citizens and the local jurisdiction to make sure that they have safety considerations for the people who are traveling and

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who have business in that city. But I do think that if a local jurisdiction becomes totally irresponsible and would allow that kind of a building, all I can say is if any elected official in San Jose was to allow that kind of a building in a flightpath of our airport, I don't think they would be elected very long in the first place. And I at least think that somebody ought to stop him.

So, that is not a real answer, but I can tell you that I think the local authorities should have the ability to make a sound decision, but there should be a way to stop them if they don't.

Mr. HAMMERSCHMIDT. Yes; I was more or less making a commentary rather than a question.

Thank you again very much for your testimony.

Ms. WILSON. Thank you, Congressman.

Mr. MINETA. Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman.

Let me say, too, that I enjoyed your testimony very much, and the description that you have given of the arrangements reached in California are a real model for us. What you have achieved is largely what we would hope to achieve. What makes me curious about it is that we have been told that some of the things that you have done are not possible. Obviously, they are.

You received no objections from the FAA on some of the limits, you have opened the door here on nighttime limits at least on touch and go, so that you have crossed a certain threshold. Has anyone tested that, and gone to the FAA, and had them answer the issue, or has anyone tried to test it in court?

Ms. WILSON. Not that I know of, no.

It would be the other way around. We probably had more citizens try to shut down the airport than pressure from the FAA.

Mr. MINETA. If the gentleman would yield?

You also have a very active Airman's Association, and it was reached in cooperation with the people who have their planes based at Reid-Hillview Airport, as well as others who use Reid Hillview and some of the other airports in the area. So, it wasn't as if it was just the county jamming something down the pilot's neck. It was reached in accordance with a mutual agreement. And I think that is part of what Ms. Wilson is talking in terms of that Good Neighbor Policy Committee.

In the sense that to have a good airport, you really have to be a good neighbor. And I know that Ms. Wilson has been very active in trying to get that kind of community consensus.

Ms. WILSON. Yes; let me tell you about the good neighbor policy in South County.

The Pilot's Association and the South County Airport wanted to form it because it is an uncontrolled airport and sometimes there are emergency landings for which they need lights. And the FAA put the lights there, and the Air Association had paid for the lights and was willing to put them in on their own time. They had an electrical contractor who was a pilot. And the people were fighting that.

And that airport had been just a sore thumb for the people down in the Santa Clara area where they lived ever since it had been first built. And, finally out of desperation, I pulled this committee together because the pilots on one hand wanted the lights in and

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the FAA said, yes, they should be there for safety considerations, although they are not turned on except for an emergency, and there are limits as to when they can be used.

And when I pulled together that committee of the pilots who wanted the lights there, of the members who did not want the lights there, when you get people on the same committee, they begin to grow and understand each other's problem. And no one believed that I could solve that problem. The Santa Clara County Board of Supervisors said leave it alone, you will never solve that. And when they sat down and worked it out, it was amazing what happened.

We have learned to live with each other, and there is more respect because also they know that the pilots have integrity and will operate in good faith. And if they don't, they know where to go.

Mr. TORRICELLI. It is a real model, and I am extremely impressed that you were able together.

Let me ask finally on the building advice that has been given, have the people who are on the board all been appointed by the county or are they town representatives too?

Ms. WILSON. On the airport land-use commission?

Mr. TORRICELLI. Yes.

Ms. WILSON. They have one supervisor, which is an elected supervisor; one city councilperson from the city of San Jose, and that is an elected person; the noncity councilperson that is a member of one of the other city councils, there are five cities in the county so that you have all the other cities represented; and one public member, a citizen at large.

Mr. TORRICELLI. And how do issues get to the board, is it that anything built in a certain area automatically comes to the board, or anything over a certain height automatically comes to the board?

Ms. WILSON. If it is in an accompanying area, it goes to the county planning commission, and they make an airport land-use commission recommendation. And they make a decision, and if it is a general planning amendment, it comes before the board, and they examine that. If it is a use permit, it stops at the county planning commission. They are the ones who determine use permits, unless they appeal to the board. Ultimately, the board can make a final decision.

In the city of San Jose, it is the same. It goes to the city planning commission and if it is a general planning amendment, it goes to the city council. If it is a use permit, it would stay within the planning commission. Most of their land use goes directly to city council, so that they read the recommendations of the airport land-use commission before they make a decision.

Mr. TORRICELLI. Thank you.

Mr. MINETA. Thank you very much, Ms. Wilson. We appreciate your being here.

Ms. WILSON. Thank you.

Mr. MINETA. At this time, I would like to call on a panel made up of Hon. Dominic Presto, the mayor of Carlstadt, NJ; Hon. Bernard Brooks, the mayor of Teaneck; and Hon. Gerry Calabrese, the mayor of Cliffside Park, and Mr. Alfred A. Porro, Jr.

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While we are waiting for Mayor Calabrese, who is being summoned right now, let's just go ahead right now with you, Mayor Presto, and you, Ms. Goldfarb, representing Mayor Brooks.

TESTIMONY OF HON. DOMINIC PRESTO, MAYOR OF CARLSTADT, NJ; HON. GERALD CALABRESE, MAYOR OF CLIFFSIDE PARK, NJ; AND TONI GOLDFARB, CITIZEN MEMBER, TOWNSHIP OF TEANECK SPECIAL FORCE ON AIRPLANE NOISE AND SAFETY; MAYOR BERNARD BROOKS OF TEANECK, NJ

Mr. PRESTO. OK, fine.

I am the mayor of the borough of Carlstadt, in my 15th year at the present time. I am native to the area having been born in Carlstadt. So I have seen both the growth of the airport, and the growth of my own municipality, and in particular the growth of the Meadowlands District which comprises 14 communities within it.

I have seen the airport grow from the little airport that it was, as Congressman Torricielli mentioned, to the airport that it is now. As a result, I have seen the change and the impact. We lie to the west of the airport, and we are along what you might call the ridge. We go from the low of Route 17 to a height an elevation of about 400 feet, I would say. And the members of our community, and the communities in general: East Rutherford, Rutherford, Woodridge, Moonachie, are all similarly affected by the low-flying, noisy aircraft.

I do not intend to discuss the mishap which occurred in Fairview and Cliffside Park because I feel that that has been amply discussed elsewhere, and I think an outcome to that will come from individuals better able to explain the problems and the impact. But I do want to discuss the impact Teterboro has on the quality of life on our respected communities.

It would appear from what I have heard from the many hearings that we have had personally, that areas such as Moonachie, they object to aircraft flying so low that they can see the occupants within the aircraft as they are landing and taking off. Noise which results in obvious discomfort and the damage to property.

One of the panelists was to be Mr. Porro, who was to discuss I believe the present lawsuit which is pending which has several hundred citizens involved for the impact that the noise and the vibration has caused on real and personal property, in addition to the psychological impact.

We view it as having two possible solutions, and believe it or not, these were recommended by the Teterboro Airport officials. These two solutions to help out the communities, and particularly the mayors and the governing body who gets most of the complaints from the citizens was: First, to put in some noise-monitoring equipment, which would help find out which pilots are offending, who is violating the allowable decibels, et cetera. Well, to date, we haven't received that, however, that is still in the promise stage. And I understand that is forthcoming.

This, of course, would only help us to identify anyone who would violate the present laws. It does not force the owners of the aircraft to do what I understand is the present law, that is to retrofit their

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aircraft and to make them more tolerable in the area. That I think is up to the enforcement and part of the good will which is due from the airport officials.

The other is to change the landing patterns. We have had several mishaps in that Meadowlands area, and that excludes the one that occurred here in Cliffside Park and Fairview. They both occurred, thank God, in the Meadowlands area and not within the highly populated area of the community. We were told that there was a possible resolution to that problem. And that would be the installation of the microwave landing system, but they hastened to add that this would be something that would be very expensive and quite a ways off in the future.

It seems that everything is in the future, and there is nothing in the present. When reading what I had received from you people, we were going to look at the problem from several views. That is, from what the local officials can do, what the State officials can do, and what the Federal officials can do.

There is really only so much which we locally can do. We can receive their complaints, but there isn't much we can do. If we receive a complaint that someone doesn't pick up their garbage, we can take care of that. If there is a noisy manhole cover, we can take care of that. But we just can't take care of the problem of the low-flying aircraft, the noise and the damage that occurs. And if it requires money, that money must come from someplace other than the local municipalities.

I also heard while sitting here two sides of the argument of availability of money. One of which was, that notwithstanding the money restraints, there were methods where we could unloosen some of the money which is in the—I forget the term that was used, but there is some money that could be used in the airport funds. Airport trust funds, I think it was.

Well, I think that this is the area where the Federal Government must come in. It must loosen up some of this money to make the regional studies which are necessary to coordinate the aircraft from this area: Newark, La Guardia, JFK, and Teterboro. I think if that step were taken, and we got beyond that study phase, and invested some money in the needs of the airport to make it a safer system. And if we could get a better landing pattern to affect those to the north and those to the south and west, we could accomplish a great deal. There again, that is money.

And I would like to conclude by saying to this group here that I would hope that you gentlemen would do everything possible to loosen up these trust funds, get some money into the system, and give the residents of the area the relief which they so direly need.

Mr. MINETA. Thank you very much, Mayor Presto.

Mayor Calabrese, let me thank you on behalf of the Aviation Subcommittee for the hospitality that has been extended to us here today, and the use of your fine facilities. Please proceed in your own fashion, sir.

Mr. CALABRESE. I agree with everything which Mayor Presto has said, but I also would like to share my comments with you regarding the impact that this air tragedy had on this community. The after effects.

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There are two separate considerations which apply to the Borough of Cliffside Park concerning the airplane crash that was over our community back in November. The first is the tangible dollars and cents expense incurred by our municipality. More important is the pain and suffering of the crash victims themselves, plus the effort our community had to make to cope with the tragedy.

From the viewpoint of municipal costs, our expenses are over $50,000. Overtime pay, cleanup for crash victims, bringing equipment in, which was asked by the FAA and State police, who stated that we would be reimbursed. So far, all we have received is lipservice. The hidden costs, however, cannot be measured in dollars and cents. If we were to pay for the countless volunteer hours our community put in, the cost would be at least a half a million dollars.

On the Sunday night of the crash, volunteer firemen from all eight communities of East Bergen mutually had men and equipment on the scene to work through the night. Countless police and fire units from State, county, and neighboring communities assisted our local policemen in crowd control, traffic and other problems which arise in a tragedy.

When the fires were under control, besides the six crash victims, Cliffside Park had 33 homeless people of all ages who had lost everything: their homes, their furnishings, their family treasures all gone in a flaming fireball. Most of the residents who live in the six homes that were destroyed fortunately were not at home. Because of the good weather that day, most of them were out either for a Sunday ride or visiting relatives. If that wasn't a good day, we probably would have had many more serious injuries and deaths.

The Cliff Street area of Cliffside Park provides what we term "affordable housing." People paying $200 to $300 rent were suddenly thrown into a housing market where $1,000 per month is more the norm. Through friends and neighbors, plus our local real estate people, all subsequently found shelter although at a much higher cost.

Cliffside Park and its neighbors pitched in to alleviate their suffering as much as possible. Foodstuffs, furniture, clothing, and household utensils were collected within days. Many of our municipal employees, and friends, and neighbors, worked countless hours to make this possible, and we praise them for it.

A fundraising effort throughout our community collected more than $50,000, which was turned over to the 33 crash refugees. Today, more than 4 months later, just about 4 months, we are still living with the crash. Half a block stands vacant, and the victims do not have comparable housing. The loss of family treasures is irreplaceable, so I ask this congressional committee to do whatever is necessary that death does not rain from the skies again.

We cannot undo what is done, but we can make sure that it does not happen again.

Mr. MINETA. Thank you very much.

Ms. Goldfarb.

Ms. GOLDFARB. Thank you.

For those who know Mayor Brooks, obviously I am not he. I am the citizen member of the township of Teaneck special task force

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on airplane noise and safety. That is a task force appointed by the township council, and I am speaking officially for Mayor Brooks.

The township of Teaneck, NJ has long been involved in the issue of aircraft noise and safety. The township has worked closely and to some success with Teterboro Airport in the establishing of temporary noise monitoring equipment and of a noise complaint hotline. However, problems of noise and safety due to aircraft still exist.

More effective and far-reaching solutions to these problems are required. The current State laws regulating new and existing airports do not allow surrounding municipalities the opportunity to comment on licensing review process or expansion and development requests of local airport facilities.

Giving you a little history, in 1984 the township of Teaneck in efforts to accurately and objectively present and identify aircraft noise and safety problems completed a study of aircraft noise, which was conducted by a noted audiologist, Dr. Joseph Danto. The study analyzed the noise impact resulting from aviation activity over the general area of Teaneck in 1984.

And the study revealed the following facts, and this is just a short summary about aircraft noise in Teaneck: One, Teaneck is a relatively quiet community in which intrusive noise levels are often clearly identifiable. two, roughly 25 out of 100 aircraft which fly over Teaneck are identifiable as Teterboro aircraft. Other aircraft are identifiable as La Guardia and Newark based. So, our problem is not just Teterboro, we are talking about other airport problems as well; and three, aircraft noise reports by township residents suggests that they are awakened by aircraft flying over at 1 a.m., and are then subjected to a barrage of loud, low-flying aircraft. Observers confirmed high-noise intensity flyovers in the 1 a.m. period and at other hours.

Dr. Danto concluded, and the township agreed, that any recommended action should take into account the surrounding municipalities. Abatement of the aircraft noise problem in one community should not result in the shifting of the problem into someone else's backyard. And very specifically, we feel that the problem has been shifted into our backyard, since we have had no input into the growth of Teterboro Airport which has occurred over the last few years. We wouldn't want to do this to another community.

More recently, in October 1985, a list of dates and times when aircraft noise was noted in Teaneck was submitted to the township. And I would like to take an aside here. I was the person who compiled and submitted that list. I have lived in Teaneck for 14 years and contrary to Mr. McLure's testimony earlier, we have found that there has been a particular increase in aircraft noise problems in the township steadily in the recent years.

And I would like to give you some indication of what we are living with. Congressman Torricelli mentioned that his mother lives in Hackensack and hears these noises. We heard about noise in the middle of the night from courier flights. Here is just a midday hour. This was a Wednesday in September. Starting at 11:53 in the morning, I am going to read you times that aircraft flew over my house. This was heard by me inside with my doors and windows closed: 11:53, 12:04, 12:06, 12:10, 12:13, 12:17, 12:17—

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that is two. That means a crossover in the skies, which we frequently experience in our area—12:22, 12:26, 12:28, 12:31, 12:32, 12:38, 12:43, 12:47, 12:48, 12:50, and 12:54. That is 18 in a 1-hour period, averaging 1 every 3½ minutes.

And let me say, and this goes back to the noise report that was conducted in Teaneck, unlike community generated noises, that is, someone shouting, a car horn going off, those are short term noises. When we speak about airplane noise, we are talking about the drone of a plane that may last 30 seconds, 1 minute, perhaps even more. So, this that we are talking about is almost constant aircraft noise.

One of the reasons I am particularly concerned about this is that I grew up in a community on Long Island, which when my parents settled there in the early 1940's was pretty quiet. By the time I was going to school, classes stopped numerous times during the time because teachers could not proceed because the aircraft noise was so great. I thought I had left that behind when I moved to the quiet community of Teaneck.

In addition, I am a medical and social science writer and publisher. I am knowledgeable and concerned about the health and safety effects of aircraft noise and other intrusions. Also, since I work from a home office, I am exposed to this noise all day long, not just in the evening hours. And I am a frequent caller to the Teterboro aircraft hotline, where supposedly I am supposed to get relief.

When this hotline was set up, partially at the instigation of the Danto Commission, it was set up so that citizens of the area could call in and have those flights identified. And if no help was available, that the citizens themselves would be able to obtain the names of the companies flying those planes and have some sort of citizen input even in letter writing to say company X, your planes are bothering us, be a good neighbor.

Well, instead of that what will happen is that when I call Teterboro aircraft hotline, they say to me, "Are you sure that is a Teterboro plane? Is it going in our direction? Are you sure that is coming from our airport?" Now, I know the difference between a 747 and a small, corporate jet. But in the wee hours of the morning, when I have been awakened at 1 a.m., I can't just run outside in my nightgown and call up, "Hey, are you going to Teterboro?"

Somehow or another I thought that they would be doing a better job of monitoring. That is one of the reasons, after getting no success with that hotline number, that I brought my list and problem to the township council. The township forwarded this information to Teterboro Airport for its review. Teterboro responded quote: "That it appeared that the aircraft were La Guardia departures from Runway 31."

The list of dates and times was then submitted to the port authority of New York and New Jersey's Supervisor of Aviation Community Affairs. In January 1986, several months later mind you, the response received was that the supervisor was unable, quote: "To confirm that it was La Guardia Airport traffic on the time and dates submitted." When I got a copy of that letter, I said now I know why they keep asking me where those planes are going. I don't think anybody knows.

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The solution to limiting aircraft noise and the related problem of aircraft safety faced by municipalities surrounding local airports is the promulgation of State and Federal regulations addressing these issues and allowing for local government input concerning airport facilities, both new and existing.

Current New Jersey State rules regulating the licensing of aeronautical facilities, chapter 54, title 16 of the New Jersey Administrative Code, require the submission of the appropriate local governing body's statement re a new facility or the modification of an existing facility. No provisions are made for surrounding municipalities to comment.

Chapter 1654 1.4 General Requirements for Licensing, section B requires that all applications for aeronautical facility licenses be reviewed by the aeronautics division of the State Department of Transportation to determine whether issuance of a license takes into account the interest of public health and safety. Factors such as surrounding land uses, local zoning ordinances, noise characteristics of the type of aeronautical equipment to be used, air traffic patterns proposed in the area, and other relevant information are to be part of the consideration for licensing processing. But again, no provisions are made for the surrounding municipalities to comment.

Specifically addressing item 5 of the agenda for today, the responsibilities of Federal, State, and local governments to insure that safety is considered in the development of land near airports. And the question phrased: Is there a need to change this division of responsibilities, or do we add to the responsibilities at any level of government including direct regulation, or the provision of incentives through Federal grants and aid for airport development.

Very specifically, the township of Teaneck and the special task force on airplane noise and safety recommends the establishment of a flight path communities commission, composed of those communities directly affected by the flight paths of aircraft from airports within a 15-mile radius. The commission would have the power of review, comment and approval of the airport's annual request for license renewal, and of requests for expansion or modification.

The flight path communities commission would review the impact of local airport noise, safety, and other environmental intrusions on the surrounding municipalities, and indicate recommendations including but not limited to: One, the restriction of arrival and departure times; two, limiting of size and/or weight of aircraft; three, stronger enforcement of prescribed flight patterns; four, installation of permanent noise monitoring equipment; and five, planning of noise abatement practices and procedures.

In summary, noise, safety, and environmental intrusions must be considered a significant factor when regulating the use of land near airports. The surrounding local municipalities must have the power of review, comment approval regarding local airports. And provision for this review, comment approval must be made at the State and Federal level.

Finally, on a very personal level, I would like to express my sympathies to the communities of Fairview and Cliffside Park due to the recent loss of life from this tragic collision that we had. As

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someone who has complained about aircraft problems and safety problems for so long, when that crash occurred I realized it just as easily could have been my community of Teaneck, my home, or the homes of those in neighboring communities to mine.

When those noisy Teterboro planes go over my house, my husband and family and I kid, "Uh-oh, is this one going to go through our roof this time." It is not just the noise that is a problem, it is a real concern for safety. And I am not alone in that concern. When reports appeared in local newspapers about my testimony before the township council, my phone rang off the hook with calls from other residents whose quality of life has been disturbed and whose fear for their own safety have not been abated by any measures that have been taken so far.

Contrary to testimony earlier, the issue for us is not an increase in the number of air traffic controllers, but a decrease in irresponsible air traffic over our homes. When seven astronauts perished in the Challenger tragedy the other month, the whole Nation went into mourning. Flags were flown at half-staff and all shuttle flights were suspended. Six lives were lost recently in our area of Bergen County. No flags flew at half-staff, and no flights at Teterboro Airport were suspended.

At the recent Federal inquiry into the collision, Teterboro controllers admitted to making errors. They admitted to having difficulty in tracking the air traffic over our area. Despite all of that, low flying aircraft continue to criss-cross over my house every single day. It is not just occasionally, but many times a day. And although the FAA in 1984 reported that the average flight level for non-Teterboro flights was 4,000 feet, the recent increasing density in air traffic has resulted in a greater number of planes flying at the lower FAA permitted level, which is 2,000 feet.

In addition to which Teterboro planes fly even lower than that. And we all had only a semihumorous reminder of this recently when the local police issued a summons to a man in one of our parks because he was flying a kite. It seems that the Teterboro pilots complained that the kite was in their way. And we have heard that Teterboro is still considering yet another runway. If even kites are in their way, we are really in trouble. Another runway will only add to the problem.

Teaneck has recognized and reported on this problem responsibly, without lawsuits, with patience. But flights continue to increase and the problem increases. Now, six lives have been lost. Contrary to the testimony earlier by Mr. Del Balzo, we are not sure that the system really is safe. In trying to prevent the Challenger spacecraft from taking off, one of the engineers at a manufacturing company said he wouldn't want to be the one to testify before a commission if something went wrong. And he ended up testifying.

I'll echo that concern by telling you that I wouldn't want to come back here with the members of this committee today to testify if another Teterboro tragedy occurs. Let's make real and meaningful changes now so there won't be any other tragedy.

Thank you.

Mr. MINETA. Thank you very much, Ms. Goldfarb.

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I am not really very familiar with the organizational structure between townships and State and county here in New Jersey, so you will have to bear me out on this thing.

In your planning commission and township council review of developmental proposals that are near Teterboro Airport, how and when do you involve the port authority and its airport managers? Do you formally or informally consult with them on potentially beneficial or adverse impacts of proposed developments on approaches to the airports, and what weight would you say is given to their views?

Mr. PRESTO. I can respond for our district. Our district is unique because we are the Hackensack Meadowlands District, and they do an indepth land use study and they do involve the considerations involving the flight patterns. I do not know whether they go so far as to go to the FAA or to Teterboro itself, but I know that it is a consideration.

Ms. GOLDFARB. In Teaneck, I have to say that we are not approached. And that was one of the problems that we had. I think that Congressman Torricelli may remember that when Teaneck did the noise survey, we forwarded the survey to him, and he was kind enough to pass it on to the FAA for comment. And then comment came back to us. No one approaches us. Officially they seem to have no responsibility to approach the municipalities.

Mr. MINETA. What about the FAA and their involvement in the process? Do you think their delineation of clear zones is adequate protection for assuring compatible land uses around airports, or what else might be done?

Mr. PRESTO. I am not completely familiar with the subject which we are discussing, but I doubt that any development that goes on in this particular area would impact on it. I haven't seen it yet.

Mr. MINETA. Let's assume that this is the runway. They will establish a clear zone in terms of a lateral distance, in terms of a height, so that a building this close to the end of the runway can only be this high, but if you are this far back, it may be this high. It would be allowed to be higher. And then from the airport itself to the sides, it would also establish a zone. So that you have in here a pocket in which either through height or through the kinds of development, there might be a clear zone.

Mr. PRESTO. The only thing I know of that is when Teterboro was discussing its expansion on the corner of Redneck and Moonachi Avenues, it was they who were being accused of encroaching upon that zone. It never did go any further.

Mr. TORRICELLI. Mr. Chairman.

Mr. MINETA. Mr. Torricelli.

Mr. TORRICELLI. As a matter of explanation, this should be seen in the context of well-developed communities, where people are not coming to a nuisance, a nuisance is rather going to them. At the end of one of these runways in Moonachie, the houses abut directly to the airport. The houses are so close to the runway that the exhaust fumes become so thick on the walls of the houses that you can scrape it off with your hand. It is that close.

There is at this moment a slight buffer between the airport and the town of Moonachie on a different side, but with the expansion, the new runway will now abut houses in that direction. So, there

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are few, if any, barriers. What I found interesting before in testimony is the concept of this clear zone in keeping major facilities away from the airports.

There is a school that can't be more than a few hundred yards away from the airport in one direction. So, this is an airport in a highly congested place. The airport has simply grown to touch the limits of the communities around it.

Mr. MINETA. Is that school to the side?

Mr. TORRICELLI. I am not sure I have my directions right. There is one to side and close.

Mr. MINETA. Let me ask, do you think that the State of New Jersey's licensing and land use requirements for areas around airports are adequate, and if they are not, any suggestions on how they might be strengthened and are there any efforts going on in the State legislature to try and do that?

Mr. PRESTO. Mr. Chairman, I think you are reversing the position. I think that Congressman Torricelli put it very correctly. That we were there first, and what you are saying now is that we should restrict any future development in the communities to benefit the expansion of the airport. We are saying that the airport should be restricted in its present posture, so as to allow our communities to develop in a normal course.

New Jersey just underwent a complete land use reform. We just have had new laws passed, and they do not address this, and properly so in my opinion. I would think if we are going to have a new airport come in, that may be different.

Mr. MINETA. I think my head is sort of wearing the California hat in this instance because local government doesn't have any more powers than was granted to them by the State legislature. In California, we are creations of the State, and to the extent that our powers are limited, once we are created by the States we become orphans.

Mr. PRESTO. Well, no, they have reserved one of the prize possessions of the communities in the State of New Jersey, is that for the exception of one area and that is the Meadowlands District, the municipalities have the sole right to plan and zone.

So, that would be a direct infringement upon us.

Mr. MINETA. Within their incorporated areas?

Mr. PRESTO. Right.

Mr. TORRICELLI. Mr. Chairman, in yielding, this is a State virtually without planning. This is a State where chemical companies, schools, factories, refineries, and airports can all occupy positions in relative proximity. That is part of what has led to this difficulty. And there has now been an absence of State leadership to address the problem.

That is why earlier, we are calling upon the Governor to develop a master plan for aviation in the area. Because the community and the airport will not be able to settle this themselves. There are economic interests that are in real conflict, and we need both. But we don't need both occupying the same piece of land in conflicting purposes.

Mr. MINETA. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. I guess I do have one question, who owns Teterboro?

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Mr. PRESTO. The port authority.

Mr. HAMMERSCHMIDT. I don't have any further questions.

Mr. MINETA. Mr. Torricelli.

Mr. TORRICELLI. It is owned by the port authority, but it is operated by Pan Am, which raises interesting questions relative to Pan Am's future.

Mayor Calabrese, when the crash took place and the fires ensued, did the local fire department seem able with their equipment, technology, and training, to deal with the fire, or was outside assistance and advice necessary?

Mr. CALABRESE. They did an excellent job. They contained the fire to those six homes there, and they were on the scene almost immediately. I was at home at the time when the crash took place, and I immediately jumped in my car. I only live about a quarter of a mile from the scene, and I was right behind one of the fire pieces of equipment.

I was right there, and they acted so fast. And, of course, we had the neighboring communities, they all pitched in and did a tremendous job.

Mr. TORRICELLI. And from their training, they seemed to know how to deal with the jet fuel fire problem?

Mr. CALABRESE. Yes.

Mr. TORRICELLI. How long did it take the Teterboro Airport officials to get there?

Mr. CALABRESE. I have no idea. I can't answer that question.

Mr. TORRICELLI. Ms. Goldfarb, I merely want to respond to a point you made. It is no one's intention to move this problem to somebody else's backyard. It is rather to institute some effective planning so that the problem is in an appropriate place.

Someone is going to be bothered by aircraft noise, the dirt is going to fall on somebody's walls, and occasionally a plane is going to fall from the sky on somebody's house. The question is rather whether that is in a place where 1 million people occupy a relatively small piece of space; where there are schools and churches; or whether some of that traffic occupies a more distant place where it is less troublesome and less of a bother. It is not to avoid the problem, it is that we share that part of the problem that we can each best handle.

And I wanted to explain that part of it in relation to what you said, but also to commend you for the work that you have done. I think that it is remarkable.

Mayor Presto, I am not sure where we go from here. I feel that we have a working commitment from the Governor not to approve an expansion, absent a tremendous exhibit by the airport to dissuade him of our concerns about noise. Concerns I think they are unable to answer. So, I think, in terms of the expansion, that we are in good condition. But we can't be satisfied either with the status quo, and how we advance from here is going to require an answer from the State and land use planning, the operation of a different facility. And I hope from our part, too, that a couple of things can come out of this hearing to help us.

One would be raising this ceiling over our county to be similar to that in New York City, which, I think, is deserved. And, I think, we had some admission of that possibly from the FAA, and that is

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one answer. The other is going to have to be a larger State planning role. Absent that, we are in a difficult position.

Mr. PRESTO. What bothers me is that one comment that was made and that is if there is an alternative, and that alternative is not put into practice only because of the lack of funds, it bothers me. It bothers me something terrible because if you can take away the chance of a mishap over a residential area, and that flight pattern comes over several schools, a senior citizen housing project, hospitals. There is everything in its path. And if they could shift that over the Meadowlands, as I am told they can do by the expenditure of money, I think it should be done. Because that is the only thing that is stopping it from what I am told. And I think you are familiar with that MLS concept.

Mr. TORRICELLI. I am, and I am looking forward to hearing from the airport officials to see whether, in fact, they will confirm that that is possible.

Mr. PRESTO. Well, that is what we were told once upon a time. I don't know whether that position has changed.

Ms. GOLDFARB. Is there any possibility for a flight path communities commission that might provide a formal mechanism for local communities to comment and review?

Mr. TORRICELLI. There is. Up until now the equipment they have, as I understand it at the airport, the shifting so far has merely been shifting the problem from one community to the next.

The Hackensack problem or a Teaneck problem or a Leonia problem, but it is somebody's problem. The concept of shifting it to the Meadowlands, as I understand it, has required a different technology and different equipment for Teterboro and Newark, which is the expenditure question that Mayor Presto brought up.

Then there is an opportunity for communities to shift the burden. Though it has been a money question to date, I suspect we will be hearing more about it in a minute.

Thank you, Mr. Chairman.

Mr. MINETA. Thank you very much for your appearance here today. And Mayor Calabrese, thank you very much for the use of Chambers here today.

Mr. CALABRESE. You are welcome.

Mr. PRESTO. Thank you very much for the opportunity.

Ms. GOLDFARB. Thank you.

Mr. MINETA. I would now like to call on Mr. Robert E. Cohn, general counsel, People Express Airlines. Mr. Cohn, your statement will be made a part of the record. Please go ahead and introduce your colleague and proceed in your own fashion.

TESTIMONY OF ROBERT E. COHN, GENERAL COUNSEL, PEOPLE EXPRESS AIRLINES; ACCOMPANIED BY GARY CHURCH, TECHNICAL CONSULTANT TO PEOPLE EXPRESS

Mr. COHN. Thank you, Mr. Chairman, Mr. Hammerschmidt, Mr. Torricelli. I am Robert Cohn. I am general counsel with People Express Airlines. And with me today is Mr. Gary Church, technical consultant to People Express on air traffic control and resource issues.

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We welcome this opportunity to share our views concerning vital air transportation safety and capacity issues for New Jersey. Let me first say that the commercial air transportation system remains the safest form of transportation in the United States today. However, we cannot accept the system as perfect. Continuing and challenging efforts must be made to ensure that the levels of system safety are maintained and improved through the expenditure of both manpower and moneys by all aviation interests.

In your examination of the air traffic control resources and safety issues for this important region, we urge the committee to examine the ways and the means by which the U.S. Government can provide sufficient air space capacity to enable all sectors of the industry to meet travel demand unfettered by artificial regulatory constraints. We firmly believe that increases in air transportation efficiency and capacity will necessarily result in improved levels of aviation safety.

We do not believe that regulatory efforts to restrain demand for air transportation serves the American traveling public in improving or even maintaining aviation safety. And I would like to reiterate this very critical point. Aviation safety will be maintained and improved only by increasing air traffic system capability, not by restraining air traffic demand.

The passage of the Airline Deregulation Act in 1978 to which you earlier made reference, Mr. Chairman, unshackeled the aviation industry from the regulatory constraints which restricted transportation markets and inflated prices for over 40 years. People Express was the first progeny of airline deregulation. It was created in response to this free market. It began operations at Newark Airport in the spring of 1981. From its very small beginnings with three aircraft serving three markets, People Express has grown to become the fifth largest airline in the United States, with 80 aircraft serving over 50 cities including London, Brussels, and Montreal.

People Express has singlehandedly transformed Newark Airport from an underutilized forgotten terminal into a thriving air transportation hub, the largest in the New York/New Jersey metropolitan area. People Express alone conducts 430 commercial flight operations, that is landing and departures, a day at Newark, and carries over 1 million passengers a month.

With the completion in 1987 of People Express' new $200 million state-of-the-art terminal C, with its 41 gates at Newark International, People Express will have the capability of continuing its historic pattern of growth and investment in Newark by expanding service upward to 800 flight operations a day to accommodate a projected 25 million customers a year on our system alone.

And I would like to comment that that will not be an overnight buildup, Mr. Chairman, but one that will be done in phase-in fashion. This growth will provide thousands of new jobs, and invigorate the economy of New Jersey with millions of dollars of revenue, while providing an extensive and expanding low-cost air transportation network not only for the residences and businesses of this region, but for the Nation as a whole.

Terminal C serves as the cornerstone which must be supported by quantum improvements in both the airside and the landside in-

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frastructure. People Express is working closely with the Port Authority of New York and New Jersey, to establish the necessary landside infrastructure to accommodate the projected demand.

Concommitant airside improvements in the air traffic control system must be made now to support the expected demand and to guarantee the safety, efficiency, and capacity of the region's air transportation system. Newark is no longer a sleepy, underutilized facility. It is becoming one of the most dynamic commercial aviation hubs in the Nation. Unfortunately, Newark has not commanded the attention it warrants from the Federal Government, and the air traffic control resources have simply not kept pace with demand. For example, during 1985, Newark Airport had the highest incidence of air traffic control delays of any airport in the United States. The average of 93 delays of 15 minutes or more per 1,000 operations was almost three times the average of all other major airports in the United States.

Over 90 percent of these delays were departure delays attributable to weather and air traffic volume constraints outside of the Newark Airport environment. These limitations resulted from manpower, from airspace design, and from procedural deficiencies in the en route airspace environment which have not kept pace, as I indicated, with growing demand for the air traffic control services.

For example, in the fall of 1985, the New York Air Route Traffic Center had only 46 percent of the full performance level of experienced controllers it enjoyed in the summer of 1981. Newark Tower was at 80 percent of the summer of 1981 level. Further, at the beginning of this year, 10 percent of the experienced controllers and 59 percent of their immediate supervisors at the New York Center are eligible for retirement. The lack of an adequate number of fully qualified personnel both directly and indirectly supporting the air traffic control system denies the development of critical system needs for both capacity and efficiency improvements.

Although the FAA is acutely aware of these manpower problems, as we heard this morning, additional and timely efforts must be undertaken by the administration and by the Congress to support necessary FAA staffing levels and related budget requirements. Moreover, there are a number of airspace modifications that can be made without significant cost to the Federal Government that would result in dramatic increases in capacity and activity without any adverse impact on aviation safety.

In terms of airspace design, the en route air traffic control system is today simply not optimized to accommodate the flow of air traffic to or from the New York and New Jersey metropolitan areas. Many of the departure delays from Newark have been the result of restrictions into the en route center. This is because all of the major New York airports, including Newark Airport, Teterboro, La Guardia, and Kennedy, share many common departure routes and departure fixes. In fact, for air traffic control purposes, as we heard today, Newark Airport and Teterboro are treated as if it was a single airport when regulating system demand for both arrivals and departures at both of those airports.

Consequently, unless Teterboro and Newark Airport are segregated for ATC purposes, increases in activity at Teterboro will have

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a deleterious impact on Newark's ability to meet the expected demands for commercial service. FAA must address all of these problems in the expanded east coast plan, including separating Newark Airport and Teterboro departure and arrival fixes, and the Newark and La Guardia fixes, and adding additional departure and arrival fixes for the New York Center.

The FAA has been considering the east coast plan, which was formerly the Ramp plan for years now. And every time we get closer to finality, they keep changing the dates on us. For the first time I have heard today that it is now 12 months away to fruition. Last year we heard that it would be done by the fall of 1985. So, we keep waiting for that east coast plan to come to finality.

The timely implementation of major changes in airspace configuration is critical to improve air traffic control efficiency and capacity and resultant safety. Faced with the current shortfalls in FAA staffing and airspace design, we must rely upon better management of the limited resources through FAA flow control initiatives. While these capabilities are being constantly improved, they are also hampered by a lack of manpower and money.

While remedying the near term problems are critical, we must also look to those initiatives which will allow enhancements for continuing growth in demand and safety. In the case of Newark International Airport, a number of initiatives appear feasible to allow a substantial increase, and that is by 50 percent or more, in the air traffic demand, while actually reducing related congestion and delays on runways and taxiways.

The current FAA engineering performance standard, the EPS, establishes an airport arrival acceptance rate at Newark Airport at 38 arrivals per hour based upon the predominant use of a single runway. Since Newark has three runways today, it is obvious that the concurrent use of a second runway which already exists, would provide significant capacity improvements. The simultaneous use of a second runway would permit a revision of the airport acceptance rate to approximately 55 arrivals per hour, and would satisfy near term growth requirements at Newark International. For example, FAA procedures currently permit the simultaneous use of nonintersecting runways for arriving traffic during VFR conditions. Although this configuration exists with runway 11, and 4L and 4 right, less than 1 percent of the Newark arrivals which could use the procedure actually do use it. In order to maximize the efficiency of Newark's runways, we are urging and continue to urge the FAA to employ these procedures more than it has been doing. To supplement these types of procedural changes, installation of precision approach aids to enhance existing taxiways and runways are also necessary.

Before concluding my remarks, I must express one last serious concern, which affects not only airport capacity and efficiency but safety as well. This relates to the proliferation of rules and restrictions on aircraft operations by airport owners and proprietors. Although the recent publication of a proposed airport access policy by the FAA addressing environmental noise concerns falls short, in our view, of confronting the deleterious impact on interstate commerce that airport use restrictions will have on the efficient use of

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airspace, it does point out the critical need for a definitive and comprehensive Federal position on this issue.

Every major airport in the United States is seriously impacted by the diversity and pervasiveness of noise abatement policies and procedures developed by local government units, and applied by Federal Air Traffic Control authorities. It should be emphasized that People Express recognizes its responsibility to be a good neighbor, and has spent millions on noise abatement measures. People Express was one of the first airlines to bring its entire fleet of aircraft into compliance with the Federal aviation noise requirements set forth in part 36. And we did so well before the deadlines established in that regulation.

We also adopt noise abatement operating procedures, which while costly, are a recognized and effective way to control noise emissions. We do, however, strongly object to individual airports establishing aircraft use restrictions to control noise. These parochial regulations will, in our view, lead to a bewildering crazy quilt of conflicting operating restrictions, which ultimately will severely undermine the Interstate Air Transportation System.

In summary, we believe that necessary safety improvements must be sought for the National Air Transportation System. These advances will not, however, be attainable unless the Federal Government provides the necessary priorities and timely response of manpower and moneys which will add to the efficiency and capacity of the system. To this end, Mr. Chairman, People Express is strongly supportive of your efforts and the efforts in Congress to separate the aviation trust fund from the General Treasury so that the FAA budget, including funding for operations and maintenance facilities, equipment research engineering and development, as well as grants-in-aid, will not continue to be held hostage to the unified Federal budget process. This concern is especially poignant in light of the potentially disastrous effect of the Gramm-Rudman-Hollings Deficit Reduction Act on Aviation Expenditures. Be assured, People Express will provide committed support for this objective.

Finally, Chairman Mineta, I want to commend you on and endorse your sage advice to the House Budget Committee that you gave last week. With a $4 billion surplus in the trust fund, it would not—to use the President's words be, "playing fair with the people," to sequester funds that have been paid for by the traveling public, by the shipping public, for purposes of building improved air traffic control and airport systems, and to use those funds as an accounting gimmick to reduce the Federal deficit.

Thank you for this opportunity to make this testimony.

Mr. MINETA. Thank you very much, Mr. Cohn. You make reference to the need for a number of airspace modifications in the New Jersey/New York area, and you cite as an example the need for separate departure routes for Newark and Teterboro. Can you tell us whether you have any other airspace modifications in mind?

Mr. COHN. Yes, in fact, we are in the process of putting together a package and plans right now which we intend to submit shortly to the FAA and to the port authority, which will actually detail all of the ATC improvements. With the help of Gary Church here, who is our technical consultant, we have put together what we think to

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be a very feasible method of improving existing airspace resources without any significant expenditure of funds, including additional departure fixes, including additional mechanisms by which the runways that currently exist at Newark can be used more efficiently.

Mr. MINETA. You say the FAA could be doing more to maximize the efficiency of Newark's runways. Has FAA given you a reason for why more is not being done in this regard? Is it staffing, is it a lack of equipment, is it because the FAA cannot accommodate that increase or maximize utilization in Newark because it would put too much pressure on elsewhere?

Mr. COHN. I suspect, Mr. Chairman, the answer lies in all of those factors you just listed, but Mr. Church, who has worked closely with the FAA might be able to give a more definitive response.

Mr. CHURCH. Mr. Chairman, unfortunately as Mr. Cohn has referred, there are a variety of reasons and justifications why those runways are not used to their maximum efficiency.

Specifically, noise is related to a concern that has been expressed by the FAA. In addition to that, the number of experienced levels of controllers to support those operations has also been referenced, which affects the operations directly at the Newark Tower or related to the New York Tracon.

Mr. COHN. One of the problems was very boldy pointed out by the representatives of the air traffic controllers. In terms of the number of sectors that have been allocated to Newark, there has been a significant reduction, as I understand it, from what existed in 1981. And it is that manpower utilization and the resources that have been allocated to Newark. And keep in mind, in 1981 before People Express really began to blossom, Newark was clearly the distant third airport. Last year, Newark outdistanced both JFK and La Guardia in terms of total operations. And it has become the largest airport in the New York/New Jersey metropolitan area. But yet, we do not command that proportional share of resources in terms of FAA manpower.

Mr. MINETA. Very quickly, you say that People Express plans to expand service from your current 430 operations per day to 800 flight operations per day when terminal C is completed. When do you plan to be operating those 800 flights per day?

Mr. COHN. Well, it is not going to be an overnight situation. That is the capability of terminal C once it is completed. And we obviously will have to build up to that level by purchasing additional aircraft assets by which to operate that service. I don't have a timeframe. Obviously, a lot of that is going to depend on what type of air traffic controller resources are available, what kind of landside and airside infrastructure improvements are done at Newark Airport.

But, we are hoping that both the FAA, the Federal Government, the port authority, and People Express will be moving forward so that the traffic demand for those 800 flights can be met without restrictions.

Mr. MINETA. Mr. Torriceili.

Mr. TORRICELLI. Thank you, Mr. Chairman.

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Give me your reaction, if you would, as to how much of your problems would be solved with the conflicting schedules with Teterboro if we had the microwave landing system?

Are you looking at this as a solution to any conflicts, or does it not in fact solve your problem?

Mr. COHN. I guess there are two different issues there. There is the Teterboro/Newark issue which is one issue. The microwave landing system is going to be a significant help regardless of what is done with Teterboro. And, in fact, People Express has been the only airline that I know that has stepped forward and volunteered to transform its entire fleet to become capable of handling MLS, and I think that is one of the reasons why the FAA is desirous of putting it into Newark among the first airports in the country. We think that is going to help because it will enable takeoffs and landings to be on curvatures, and one that would be able to miss the congested areas, and will enable a much more frequent arrival and departure rates.

Now, the Teterboro issue ultimately has to be resolved because there is a tradeoff. Increased flights at Teterboro, unconstrained flights at Teterboro.

Mr. TORRICELLI. This is the issue I am addressing.

Does this system help this problem at all?

Mr. COHN. I don't think it is going to help.

It will help Newark to a degree, but you also have to tackle the interplay between Teterboro and Newark because as long as they treat the two airports as one airport for departure and arrival purposes, that is, for feeding into the New York Tracon and Center, then every flight that operates at Teterboro is basically going to be a flight that can't be operated at Newark and perhaps vice versa. But there has to be a balancing of what is important in terms of priorities.

Mr. TORRICELLI. I take it from this you would endorse my concept of additional general aviation airport in a more remote area out of the way of commercial aircraft and heavily populated areas?

Mr. COHN. I think that concept has a lot of merit and needs to be looked at in great detail by all of the affected parties: the port authority, the State of New Jersey, the FAA. I think it ought to be looked at very closely .

Mr. TORRICELLI. When you are operating at terminal C with your 800 flights, have you then reached something close to the ceiling on operations at Newark? Are we then close to operational capacity?

Mr. COHN. It depends where the, not only the manpower resources, but the technology resources, are at that time. And my feeling is, no; it won't be so long as we continue to move forward and spend those valuable trust fund dollars in building the national airspace system on track, I think we will not have reached saturation.

Mr. TORRICELLI. The concept of expanding the New York City ceiling and rules over similarly populated areas of Bergen County that I have been advancing, does that have any advantages to your own safety concerns in operating as an airline out of northern New Jersey?

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Mr. COHN. I am not sure necessarily it has an advantage or disadvantage one way or the other in terms of the impact on my airline services.

Mr. TORRICELLI. Proliferation of general aviation aircraft on operating visually is not a safety concern for your airline?

Mr. COHN. Obviously it is a safety concern. One would like to eliminate the unknown commodity so that you are only dealing with the known commodities. So anything that can be done to achieve that I think will be beneficial for the overall system.

Mr. TORRICELLI. Thank you.

I only want to point out, Mr. Cohn, that your airline is an important part of the economic future of our State. It had a profound impact on economic growth and employment in New Jersey, and I guess your airline offers the best example that while it is critical that we have the aircraft industry be compatible with the quality of life needs in our State, we also in pursuing the establishment of that quality of life, do so in a balanced approach because we recognize that the answer to our aircraft noise problems is not to have aircraft. It is merely to have a set of rules and airport locations and operations that will allow us to live and work side by side. And your airline offers the best example of that, and I thank you.

Thank you, Mr. Chairman.

Mr. MINETA. Mr. Cohn, thank you very much.

Mr. COHN. Thank you, Mr. Chairman.

[Mr. Cohn's prepared statement follows:]

TESTIMONY OF ROBERT E. COHN, GENERAL COUNSEL, PEOPLE EXPRESS AIRLINES

Mr. Chairman and members of the committee, my name is Robert Cohn, and I am general counsel for People Express Airlines. Accompanying me today is Mr. Gary Church, technical consultant to People Express. People Express welcomes this opportunity to share its views concerning vital air transportation safety and capacity issues affecting northern New Jersey.

First, let me say that the commercial air transportation system remains the safest form of transportation in the United States today. However, we do not accept this system as perfect. Continuing and challenging efforts must be made to ensure that the levels of system safety are maintained and improved through the expenditure of both manpower and monies by all aviation interests. In your examination of the air traffic control resources and safety issues for this important region, we urge the committee to examine the ways and means by which the U.S. Government can provide sufficient airspace capacity to enable all sectors of the industry to meet travel demand, unfettered by artificial regulatory constraints. We firmly believe that increases in air transportation efficiency and capacity will necessarily result in improved levels of aviation safety. We do not believe that regulatory efforts to restrain demand for air transportation serves the American traveling public in improving or even maintaining aviation safety. Let me reiterate this critical point. Aviation safety will be maintained and improved only by increasing air traffic system capability not by restraining air traffic demand.

The passage of the Airline Deregulation Act in 1978 unshackled the aviation industry from the regulatory constraints which restricted transportation markets and inflated prices for over forty years. People Express was created in response to this new free market and began operation at Newark International Airport in the spring of 1981. From its small beginnings—with three aircraft serving three cities—People Express has grown to become the fifth largest airline in the United States with 80 aircraft serving over 50 cities including London, Brussels and Montreal. People Express single-handedly transformed Newark International Airport from an unutilized, forgotten terminal, into a thriving air transportation hub, the largest in the New York/New Jersey metropolitan areas. People Express alone conducts 430 commercial flight operations a day at Newark and carries over 1 million passengers per month.

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With the completion in 1987 of People Express' new $200 million central C complex, with its 41 gates at Newark International Airport, People Express will have the capability of continuing its historic pattern of growth and investment in Newark by expanding service to 800 flight operations a day to accommodate 25 million customers a year on our system. This growth will provide thousands of new jobs and invigorate the economy of New Jersey with millions of dollars of revenues while providing an extensive and expanding low cost air transportation network for the residents and businesses throughout the region. Terminal C serves as the cornerstone which must be supported by quantum improvements in both the airside and landside infrastructure. People Express is working closely with the port authority to establish the necessary landside infrastructure to accommodate the projected demand.

Concomitant airside investments in the air traffic control system must be made now to support the expected demand and guarantee the safety, efficiency and capacity of the region's air transportation system. Newark International is no longer a sleepy, underutilized facility, it is becoming one of the most dynamic commercial aviation hubs in the Nation. Unfortunately, Newark has not commanded the attention it warrants, and the air traffic control resources have not kept pace with demand. For example, during 1985, Newark International Airport had the highest incidence of air traffic control delays of any airport in the United States. The average of 93 delays of 15 minutes or more per 1,000 operations was almost three times the average of all other major airports in the United States.

Over 90 percent of these delays were departure delays attributable to weather and air traffic volume constraints outside of the Newark Airport environment. These limitations have resulted from manpower, airspace design and procedural deficiencies in the enroute airspace environment which have been unable to keep pace with the growing demand for air traffic control services. For example, in the fall of 1985, the New York Air Route Traffic Control Center had only 46 percent of the level of experienced controllers it enjoyed in the summer of 1981, while Newark tower was at 80 percent of this figure. Further, at the beginning of this year, 10 percent of the experienced controllers and 59 percent of their immediate supervisors at the New York Center were eligible to retire. The lack of an adequate number of fully qualified personnel, both directly and indirectly supporting the air traffic control system, denies the development of critical system needs for both capacity and efficiency improvements. Although the FAA is acutely aware of these manpower problems, additional and timely efforts must be undertaken by the administration and Congress to support necessary FAA staffing levels and related budget requirements.

Moreover, there are a number of airspace modifications that can be made, without significant cost to the Federal Government that would result in dramatic increases in capacity and activity without any adverse impact on aviation safety. In terms of airspace design, the enroute air traffic control system is not optimized to accommodate the flow of air traffic to or from the New York/New Jersey metropolitan areas. Many of the departure delays from Newark have been as a result of restrictions into the enroute environment. This is because all major New York airports, including Newark, Teterboro, LaGuardia and Kennedy, share many common departure routes and fixes. In fact, for air traffic control purposes, Newark and Teterboro are treated as a single airport when regulating system demand for both arriving and departing aircraft. Consequently, unless Newark and Teterboro are segregated for ATC purposes, increases in activity at Teterboro could have a deleterious impact on Newark's ability to meet the expected demands for commercial service. The FAA must address all of these problems in the expanded east coast plan—including separating Newark and Teterboro departure/arrival fixes. The timely implementation of major changes in airspace configuration is critical to improve air traffic control efficiency and capacity and resultant safety.

Faced with the current shortfalls in FAA staffing and airspace design, we must rely upon better management of limited resources through FAA flow management initiatives. While these capabilities are constantly being improved, they are also hampered by a lack of both manpower and monies. For example, the shortage of manpower is thwarting the important objective of providing for a fully staffed traffic management function for the New York center, New York TRACON and the Newark tower which is essential to coordinate real-time air traffic control capacity and demand requirements and to maximize system efficiency. Initiatives such as the Automated Departure Sequencing Program, scheduled for the New York/New Jersey metropolitan airports, which can more accurately space departures than manual methods and significantly reduce departure delays, may be in jeopardy because of funding limitations, even though the cost of this program is less than the cost of one day of moderate air traffic control delays at Newark alone. The neces-

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sary capacity upgrade of the FAA's IBM 4341 flow control computers in Atlantic City, New Jersey, may also be threatened by funding limitations. We sincerely believe that with real-time coordination and cooperation between the airline industry and the FAA in these and other types of flow management programs, both safety and operational efficiency can be improved given proper program priority.

While remedying the near term problems are critical, we must also look to those initiatives which will allow enhancements for continuing growth in demand and safety. In the case of Newark International Airport, a number of initiatives appear feasible to allow a substantial increase (i.e., 50 percent or more) in air traffic demand while actually reducing airport (i.e., runways and taxiways) related congestion and delays.

The current FAA engineering performance standards establish an airport arrival acceptance rate at Newark of 38 arrivals per hour based upon the predominant use of a single runway. Since Newark has three runways, it is obvious that the concurrent use of a second runway, which already exists, would provide significant capacity improvements. The simultaneous use of a second runway would permit a revision of the airport acceptance rate to approximately 55 arrivals per hour and satisfy near term growth requirements. For example, FAA procedures currently permit the simultaneous use of non-intersecting runways for arriving traffic. Although this configuration exists with runway 11 and runway 4L and 4R, less than 1 percent of the Newark arrivals which could use this procedure actually do. In order to maximize the efficiency of Newark's runways, we urge the FAA to employ these procedures more than it has been doing.

To supplement these types of procedural changes, installation of precision approach aids as well as programs to enhance existing taxiway and runways are also necessary. The existing parallel runways can be used more efficiently to allow for simultaneously arrivals/departures by constructing displaced thresholds. In addition, high-speed exits and improved taxiways need to be created. The financial requirements for these important near-term airside improvements are not significant. Indeed, the improvement costs are considerably smaller than the economic costs incurred by the airlines and the public every year resulting from the delays.

Before concluding my remarks, I must express one last serious concern which affects not only airport capacity and efficiency, but safety as well. Although the recent publication of a proposed airport access policy by FAA addressing environmental noise concerns falls short of confronting the deleterious effect that airport use restrictions have on the efficient use of airspace in the airport environment, it does point out the critical need for a definitive and comprehensive Federal position on this issue.

Every major airport in the United States is seriously impacted by the diversity and pervasiveness of noise abatement policies and procedures developed by local governmental units and applied by Federal air traffic control authorities. It should be emphasized that People Express recognizes its responsibility to be a good neighbor and has spent millions on noise abatement measures. People Express was one of the first airlines to bring its entire fleet into compliance with the F.A.R. part 36 Federal noise requirements, well before the deadlines. We also adopt noise abatement operating procedures which, while costly, are a recognized and effective way to control noise emissions. We do, however, strongly object to individual airports establishing aircraft use restrictions to control noise. These parochial regulations will, in my view, lead to a bewildering crazy-quilt of conflicting operating restrictions which will severely undermine air transportation safety and the interstate air transportation system. We hope that a rational and definitive Federal policy will be adopted to preempt local regulation and preclude the proliferating airport restrictions which seriously impact the safety, efficiency and capacity of the national air transportation system.

In summary, we believe that necessary safety improvements must be sought for the national air transportation system. These advances will not, however, be attainable unless the Federal Government provides the necessary priorities and timely response of manpower and monies which will add to the efficiency and capacity of the system.

To this end, People Express is strongly supportive of the efforts in the Congress to separate the aviation trust fund from the General Treasury so that the FAA budget, including funding for operations and maintenance, facilities and equipment, research, engineering and development, as well as grants-in-aid, will not continue to be held hostage to the unified Federal budget process. This concern is especially poignant in the light of the potentially disastrous effect of the Gramm/Rudman/Hollings Deficit Reduction Act on aviation expenditures. Be assured, People Express Airlines will provide committed support to this objective.

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Mr. MINETA. I would like to call forward at this time Mr. Vincent Bonaventura, the general manager of the New Jersey Airports, port authority of New York and New Jersey; and Mr. Phillip Engle, Pan American World Airways, who is to accompany him. And in view of the lateness of the hour, I am also going to ask Mr. Crawford of the New Jersey Department of Transportation to testify at the same time as the port authority of New York and New Jersey. I would like to state, for the record, that these two witnesses are representing separate organizations and, of course, are not making a joint presentation. So, at this time I call on Mr. Bonaventura to make his statement.

TESTIMONY OF VINCENT BONAVENTURA, GENERAL MANAGER, NEW JERSEY AIRPORTS, PORT AUTHORITY OF NEW YORK AND NEW JERSEY, ACCOMPANIED BY PHILIP ENGLE, PAN AMERICAN WORLD AIRWAYS, MANAGER, TETERBORO AIRPORT; AND JAMES A. CRAWFORD, ASSISTANT COMMISSIONER, NEW JERSEY DEPARTMENT OF TRANSPORTATION

Mr. BONAVENTURA. Thank you, Mr. Chairman.

My name is Vincent Bonaventura. I am the gneral manager of New Jersey Airports for the port of New York and New Jersey. I would like to thank you, Chairman Mineta and members of the committee, for allowing a representative of the port authority to testify at this important congressional hearing. And in addition, I want to thank Congressman Torricelli for bringing the issues of air safety, air traffic congestion in the region, and the status of Teterboro Airport to the attention of this committee.

In 1947, both States, that is the States of New Jersey and New York, passed concurrent legislation expressing the policy that to encourage the integration of air terminals in the port district into a unified system, the port authority is authorized to establish and operate air terminals. Pursuant to this authority, the port authority entered into agreements with the city of New York and the city of Newark for the operation of John F. Kennedy International Airport, La Guardia Airport, and Newark International Airport.

In 1948, the port authority purchased Teterboro Airport, and in 1967 the port authority entered into an agreement with Pan American World Airways essentially providing for Pan Am to operate Teterboro. With me today is Mr. Phil Engle, Pan Am's general manager for Teterboro Airport. Mr. Engle is prepared to answer any questions which you may have with respect to safety procedures at the airport that are within the airport operator's control.

With regard to the actual operation of aircraft, I would note that the FAA is vested with the sole authority over aircraft safety. It is, of course, our policy to assist the FAA in carrying out its safety functions wherever practicable.

I am sure you all are aware of the tremendous growth that we have been experiencing at Newark Airport. As a result of many factors, including deregulation, Newark has become the fastest growing major airport in the Nation. In addition, forecasts indicate a further increase of about 30 percent in annual aircraft movements by the end of this century at Newark International Airport.

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The port authority has completed or plans to undertake a series of modifications at Newark International Airport to the existing taxiway system. These will provide the flexibility to permit the most efficient utilization of the existing runway system and to minimize or eliminate restrictions to aircraft taxing operations. These improvements will also permit the greater utilization of crosswind runway 11-29 during periods of heavy demand, so as to make the most effective use of the three runways at Newark Airport.

The rapid expansion of commercial aviation will consume more and more of the capacity of the three major airports we operate in this region, pushing general aviation activity out to Teterboro and other smaller airports in the region. It is therefore important, we believe, to view the role of general aviation from a regional context, especially in light of the economic development which it brings into the region. Many corporate decisions to base in northern New Jersey and in New York are based on the transportations systems, including general aviation, which are available in the region.

In addition to the role the industry plays in the location of corporate headquarters, this economic impact also includes thousands of jobs, and hundreds of millions of dollars in regional sales. This availability of transportation has contributed a great deal to New Jersey's recent economic success and vitality.

We intend to make every effort to promote continued growth at Newark Airport, and I might add at Kennedy and La Guardia as well, which contributes to the economic well-being of the region as a whole.

We want to ensure that Teterboro Airport and other general aviation airports are in the position to play a positive role in this economic development.

At Teterboro Airport, a master plan of study pursued from 1979 to 1983. The consultants for this study recommended a number of airport improvements based upon projections of general aviation activity made in 1980. These projects include a new parallel runway and additional aircraft servicing facilities.

The projections, made as I say in 1980, have not materialized. At this point, we plan to restudy the consultant's findings and projections to determine if the development recommended in the master planning study, including the addition of a runway, should be approved. We hope that this effort can be carried out with both the cooperation of State and Federal agencies. In this regard, Mr. Chairman, we look forward to working with the State of New Jersey, the Federal Aviation Administration, representatives of the aviation industry, and Congressman Torricelli, as we attempt to serve the needs of the industry and the region into the 21st century.

Thank you.

Mr. MINETA. Thank you

Mr. Crawford, would you like to make your statement now, please.

Mr. CRAWFORD. Thank you very much, Mr. Chairman.

It is an honor to appear before this committee today on behalf of the New Jersey Department of Transportation. I have submitted a formal statement, and with your permission, I would like to have

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that entered into the record, and just to touch upon a few highlights for the purposes of this session.

To understand the aeronautical picture in New Jersey, it should be understood that there are no unincorporated places in the State of New Jersey. All planning and zoning is controlled at the municipal level, with the exception of the Hackensack Meadowlands Development Commission, which was discussed earlier.

The second point that is of concern is that there have not been any new airports developed in the State of New Jersey in over 10 years. And that New Jersey continues to lose airports at a rate of one to two each year. We have seen a progression of aviation in this State, so that general aviation has in fact become two separate classes. The recreational and personal flight operations continue to move further and further from the metropolitan area, to be replaced by corporate aircraft, such as we experience at Teterboro.

New Jersey has taken three major steps in the last 4 years to improve airport safety. The first is the Airport Safety Act which provides funding for public use airports. Using this fund, we are encouraging the upgrades and safety improvements, either by assisting the match of Federal funds or through grants themselves. Particular attention is being paid to the public acquisition to permit counties and municipalities to acquire privately owned airports.

A second major step has been the Airport Hazardous Zoning Act, and apparently there is some confusion on the part of some of our municipalities. In 1983, the legislature in New Jersey passed the Hazardous Zoning Act, which was implemented through regulations which were published last November. By November of this year, all municipalities which contain an airport within their boundaries must redefine their zoning so as to recognize the airport as an appropriate zone, and to incorporate into the zoning appropriate standards for the provision of clearance areas as contained within our regulations. And our regulations, Mr. Chairman, are virtually identical with the current FAA regulations in terms of clear zones.

The major impact of this is going to be felt over time inasmuch as most of the areas around our airports are currently developed; however, the provisions do call for the Commissioner of Transportation to review any request that comes in for an exemption from those regulations, and any variance would have to have his approval.

Our third major effort has been in the airport system study to identify reliever airports, and to identify improvements that are necessary at those airports. I should point out, Mr. Chairman, that of the 60 public-use airports in the State of New Jersey, only 14 are publicly owned at this point in time. With regard to the surface facilities, that is the airports themselves, New Jersey does regulate and inspect all airports within the State with the following exceptions: Teterboro and Newark Airport, which are under the jurisdiction of the port authority of New York and New Jersey; U.S. military facilities, and in particular McGuire Air Force Base; and the FAA Technical Center in Pomona.

At each of the airports that we do regulate, we have required as a normal standard in the review of every application for licensing

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or for improvement, that all municipalities directly involved must be approached, and their comments must be entered on the record prior to our considering that application. You have heard today that our regulations do not require neighboring municipalities to provide their comments, and indeed, that is correct. However, nothing in our regulations prohibits and indeed it is standard that on those airports regulated by the State that neighboring municipalities in close proximity to an airport frequently comment upon the licensing procedures, and those are taken into consideration in the review process.

Finally, Mr. Chairman, I would like to propose that there are two key actions that I believe are necessary. One at the State level and one at the Federal level. On the State level, I believe it is important that we work not only with the airports, but with the municipalities that include the airports or are immediately adjacent to the airports to ensure that safety programs that are initiated by those municipalities and of which can be a benefit to the airport are incorporated in our various funding programs. We are currently working with members of the State legislature on just such an effort.

At the Federal level, we believe that it is important that there be a modification to the Federal law to permit an airport owner to acquire on behalf of the FAA technical equipment that has been identified as useful and beneficial for that airport, but which is lacking in immediate nationwide priority. All too often, Mr. Chairman, the FAA will identify a piece of equipment as something that will be valuable to have at an airport, something which they will put on their priority system, but something which based on their overall national funding system must wait for years to come.

I believe that there are many cases where the airport owners would in fact acquire that equipment on behalf of the FAA, provide it to the FAA, if there was some assurance that when their time came on the normal progression, that they would receive reimbursement or some other consideration. I believe that this kind of a change in Federal law would be very useful, and could in fact provide some major improvements to our airport safety system.

Most current airport projects today are aimed at improving the safety features of a facility to allow more efficient handling of air traffic. The smaller outlying airports, however, especially those in New Jersey termed as relievers, were not originally designed to accommodate the current generation of general aviation aircraft such as corporate jets. Consequently, runways and taxi way systems and other facilities are in desperate need of updating.

Other airports on the outer fringe of this reliever airport system are capable of accommodating the overflow of smaller general aviation aircraft and, in fact, are doing that today. However, until such time as we actually have the ability to handle at some of the intermediate range airports more of the larger scale general aviation aircraft, we will not be able to accomplish many of the goals that your committee has addressed today.

Thank you very much, Mr. Chairman.

Mr. MINETA. Thank you very much, Mr. Crawford.

Mr. Bonaventura or Mr. Engle, I would appreciate your views on whether the FAA has adequate staff and air traffic control facili-

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ties to handle the existing levels of traffic in northern New Jersey safely and efficiently?

Mr. BONAVENTURA. Sir, of the air traffic control situation, I have no first-hand knowledge and I would rather not comment on it. Whatever I can tell you is hearsay. If you want to hear the hearsay, it essentially is that airports, Newark Airport for example, are adequately staffed. And the concerns are with the staffing, with regard to the airspace, in the Tracon and Traffic Control Center.

Mr. MINETA. Mr. Engle, do you have anything to add to that?

Mr. ENGLE. The only thing I can add is that I am hearing the same thing at Teterboro that Mr. Bonaventura is hearing regarding the staffing levels.

Mr. MINETA. Do either of you think that safety in northern New Jersey airspace could be enhanced by making changes in air traffic control procedures, or by making changes in the design of restricted airspace?

Mr. BONAVENTURA. Well, I believe safety can always be enhanced. But capacity can also be improved, sir, if this interrelationship between Newark and Teterboro can be addressed. As has been pointed out earlier, each time there is an instrument approach to Teterboro, you lose one at Newark and vice versa.

Mr. MINETA. And does the port authority of New York and New Jersey have any formal or informal role in reviewing and commenting on proposed developments that would affect approaches and departures from the airports that you operate; and would you describe what role, if any, the port authority plays and at what point you become involved in or informed of pending local land-use decisions?

Mr. BONAVENTURA. As far as I know, virtually all of it is as a result of part 77 of the Federal Aviation Regulations. Any proposal for construction falling within the reporting requirements of that regulation must be reported to the FAA, and the FAA in turn, if it is not an obvious hazard, does a study and informs us of it, and seeks our comments as well as the rest of the industry.

And incidentally, sir, that regulation has been in effect since the early 1960's, something like 22 or 23 years, and I have seen it work many, many times, and always very effectively.

Mr. ENGLE. As a matter of fact, Mr. Chairman, we have worked very closely with the Hackensack Meadowlands Development Commission, the zoning authority in the area surrounding Teterboro Airport, whereby they are aware of just where the approach surfaces, both the horizontal and the transitional surfaces to the airport. So that, we do gain notification from them anytime there is a proposed construction and intrusion into the airspace.

Mr. MINETA. Do you find FAA's clear zones adequate to protect safety in and around airports the port authority operates, and are the State of New Jersey's licensing requirements and land-use regulations sufficient to do the job, or is more needed?

Mr. BONAVENTURA. We feel that their zones are adequate.

With regard to New Jersey's legislation, they don't affect port authority airports, and that apparently is a legislative quirk. I am told there has to be identical legislation by the two States before they can affect the port authority's airports.

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Mr. MINETA. Mr. Crawford, with regard to the prohibition of new residential developments which would be exposed to danger from aircraft operations, are there any limitations on commercial development around airports? And, what kind of developments are allowed and what types are prohibited; and does the State use a similar concept to that of clear zones?

Mr. CRAWFORD. Mr. Chairman, if I might, the answer to that is, Yes, we do have specific restrictions as to the types of activities that are permitted in the zones as the zones will be adopted this November. If I might, Mr. Chairman, I will be happy to supply the committee with a copy of our regulations as they apply.

We do permit, for example, certain types of industrial activities, certain types of commercial activities; however, we restrict other types of commercial activities in these areas.

Mr. MINETA. Fine, we would welcome that for the record.

Mr. MINETA. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

Mr. Crawford, I have two questions. I am going to read them, and you can supply them for the record, if you so wish in the interest of time.

On page 4 of your testimony, you suggest that provision could be made to permit eligible sponsors to purchase and install FAA equipment with a reimbursement program from AIP funds. To what extent does New Jersey have a backlog of projects which are to be funded from the airport and airway trust fund?

And question No. 2, and I will give these to you so you don't need to make the notes, outside of the suggestion which you make in your written statement, are there safety areas outside of the jurisdiction of the State of New Jersey which could be improved through a change in procedures or programs?

Mr. CRAWFORD. And I will give you these for responses to the record.

Mr. HAMMERSCHMIDT. Fine, thank you, Mr. Chairman.

[The following was received from Mr. Crawford:]

STATE OF NEW JERSEY,
DEPARTMENT OF TRANSPORTATION,
Trenton, NJ, April 11, 1986.

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Rayburn House Office Building,
Washington, DC.

The following is in response to your questions regarding my testimony in the Aviation Subcommittee on March 3, 1986.

There are no known projects that have been delayed or backlogged in New Jersey, that were funded through the Airport and Airway Trust Fund. We are quite satisfied with the grants received, as all applications eligible under the AI Program, have been favorably accepted.

The disparity arises in the FAA's Facilities and Equipment (F&E) Program which is totally subject to their budget restraints.

Priority lists are established each year for new or improved navigational equipment, landing aid system, radar installations, etc., within FAA regions. These priorities are sometimes revised due to funding limitations or reassignment caused by higher justification at another facility.

It is in the F&E Program that I suggest a Legislative change to permit total funding by a sponsor, with phased reimbursement from the AIP fund, when a priority item is being delayed. A prime example of such cooperative effort may well be cited in the upgrading of the Teterboro Air Traffic Control radar equipment. Had the capability existed, I feel certain that funding would have been available for the instal-

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lation of FAA programmed equipment at Teterboro, without disrupting established priority lists.

While the foregoing addresses in part, your second question, the following is more relevant to how New Jersey might benefit from orocedural changes.

The current method of allocating AIP funds should be reviewed with more responsibility being placed upon the State to establish priorities. Historically, privately-owned airports which enjoy designated reliever status, have not been the recipient of adequate funding. These facilities generally do not have the financial capability to seek AIP funds even with assistance available from State resources. While they serve a vital role in the overall system plan, they become secondary in funding priority. Should procedures permit States to utilize block grants where a localized need exists, a more equitable utilization of funds could be realized.

The State of New Jersey has an Airport Safety Fund in place which provides grants, loans and sponsor matching funds for airport improvement projects. With authority to administer AIP funds in conjunction with our internal program, reaction to immediate problem areas could be addressed without the constraints imposed by the current method which depletes available funding early in the Federal Fiscal Year.

I trust that this information will be helpful in decisions and thank you for the opportunity to provide input to your efforts.

Sincerely,

JAMES A. CRAWFORD,
Assistant Commissioner,
Transportation Services and Planning.

Mr. MINETA. Mr. Torricelli.

Mr. TORRICELLI. Thank you.

Mr. Engle, let me first say how much during these last couple of difficult years we all have enjoyed working with you. I feel that your performance has been tremendous, you have been easy to work with even when we have disagreed, and a good advocate for your position. And I wish you the best in your new position.

Mr. ENGLE. Thank you.

Mr. TORRICELLI. Mr. Bonaventura, I thought that your statement was of considerable significance. The position that you have stated about the possible expansion of Teterboro Airport. As I heard it, that given new factors, changing projections, that it is time to look again at the question of the expansion of Teterboro Airport. If that could be summarized, I would think it fair to say that the port authority is taking a neutral position pending a review.

Is that a fair way to summarize your feelings?

Mr. BONAVENTURA. That is correct.

Mr. TORRICELLI. Do you anticipate having a final judgment on the issue at some point soon?

Mr. BONAVENTURA. Well, to do it properly we would have to redo the forecasting. We would have to determine why the difference between the original forecast and what actually happened. It means a new projection, a new demand/capacity analysis, redoing much of the work that has been done before. And I would say that we are talking about at least a year.

Mr. TORRICELLI. So, we have the expansion firmly on hold for at least a year?

Mr. BONAVENTURA. That is correct.

Mr. TORRICELLI. Very good. I am very pleased to hear that.

Mr. Crawford, I thank you too for your analysis of the land use questions. And for whatever value the new law may have, and it has considerable value, it is worth repeating again: One, that it doesn't have an impact in the airport that we are concerned about; but, two, the problem in our State is that we have developed com-

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munities, and while in many new areas where they are building airports this would be of enormous value, it is for us of marginal value since the communities around the airports in many instances are fully developed. And the schools, churches, and shopping centers, in close proximity to the approaches of airports in areas like Teterboro really would not have any immediate impact.

Isn't that fair?

Mr. CRAWFORD. Mr. Torricelli, that is fair for those airports in the metropolitan area, however, there are many airports in the State that are, in fact, in areas that are now experiencing intense development.

Mr. TORRICELLI. I am in a very parochial business, Mr. Crawford.

Mr. CRAWFORD. I am in a Statewide business, Mr. Torricelli.

Mr. TORRICELLI. Anyway I appreciated your addressing that though, in terms of the other airports that are not currently developed.

Either Mr. Engle or Mr. Bonaventura, what would you forecast on the growth or decline in takeoffs and landings in Teterboro for the rest of this decade? Is there any number that we can rely upon to use at this moment?

Mr. ENGLE. I think that is exactly what we are getting into on the study of the master plan where the port authority and Pan Am working together will be looking at those exact numbers.

Mr. TORRICELLI. So, no current numbers are really reliable?

Mr. ENGLE. Not really.

Mr. TORRICELLI. I would be interested, Mr. Engle, to your reaction to this concept of ending visual flying over very congested areas. You more than most are familiar with the aircraft in the area. Is that going too far?

You don't have to give a final opinion on it, but is it something that we ought to look at—is the time coming when we have to use a greater sophistication in guiding aircraft in our region?

Mr. ENGLE. The entire air traffic control network and the air traffic control system, I think, is something that takes constant study. And this is one solution to some of the things going on. And I think it is something that is valid to look at at this point. Whether it is the ultimate solution or not, at this point, I wouldn't know. But I know that it is something that I would leave to the people in the FAA to give a great deal of study to to see if it is actually a solution.

Mr. TORRICELLI. Mr. Engle, is the mix of planes changing at Teterboro anymore. This transition we have seen in the last 20 years of the small single and double engine propeller planes to corporate jets, is that transition still in movement?

Mr. ENGLE. The transition itself, I would venture to guess that it is fairly well stabilized at this point. Teterboro up until 3 years ago had five flight schools on the airport. Today we are down to one flight school. How much longer that is going to be in operation at the airport, I don't know. But I think it has pretty well stabilized itself into the business activity and the flying that is going on there right now.

Mr. TORRICELLI. There is a perception that much of the difficulty of noise in the evening is from courier services landing late in the evening. Is it in fact true that a large number of the flights landing

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and taking off very late in the evening and very early morning hours are courier services?

Is that accurate?

Mr. ENGLE. There are a good number of flights between the hour of 11 o'clock at night and 7 o'clock in the morning related to the courier services, yes, sir.

Mr. TORRICELLI. The flights that are not courier services in those hours, are they few and far between?

Mr. ENGLE. No, we still have substantial activity from aircraft that are based on the airport or that are coming in. Not to the extent of the courier operations, but there are still operations there.

Mr. TORRICELLI. So, it is fair to say that the majority of it is courier service?

Mr. ENGLE. The majority of it is the courier flights, yes.

Mr. TORRICELLI. And are the landing fees for those courier services to land in the middle of the night the same as any other aircraft any other time of the day?

Mr. ENGLE. Yes, sir.

According to our grant agreements, we cannot charge any fees that would be arbitrary or discriminatory.

Mr. TORRICELLI. They are identical?

Mr. ENGLE. Yes.

Mr. TORRICELLI. Then how would they compare with landing fees at a county airport in another part of the State or at Newark?

Mr. ENGLE. They are lower than Newark. I don't know about any of the other airports in the State.

[The following was received from Mr. Engle:]

PAN AM WORLD SERVICES, INC.,
GENERAL AVIATION DIVISION,
Teterboro, NJ, March 20, 1986.

Hon. NORMAN Y. MINETA,
Chairman, Subcommittee on Aviation,
House Committee on Public Works and Transportation,
Washington, DC.

DEAR MR. CHAIRMAN: We would like to thank you and the members of the Aviation Sub-Committee for the opportunity of testifying with the Port Authority of New York and New Jersey as the owner of Teterboro Airport.

Under an Operating Agreement with the Port Authority, Pan American World Airways is responsible for the administration and management of Teterboro Airport. This agreement became effective on January 1, 1970 and is effective for a term of thirty years.

During the fifteen years that we have been responsible for the Airport, we believe that our concerns for safety, noise, and the relationships with the local communities have always been of paramount interest. To that end we are enclosing, for the record, a brief statement outlining some of the accomplishments, standards and procedures of Pan Am in the management of Teterboro.

Thank you again for the opportunity that was afforded to us.

Very truly yours,

PHILIP W. ENGLE.

Enclosure.

TETERBORO AIRPORT SAFETY

Teterboro Airport has a long history of concern for the safety of the users of Teterboro and the communities in the vicinity of the Airport. Our record reflects a continuing emphasis on safety as our number one priority.

The Federal Aviation Administration (FAA), by Federal law, is the lead agency in establishing safety standards on air carrier airports. Because Teterboro is a general

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aviation airport, compliance with the FAA certification process is not mandatory. Teterboro has voluntarily maintained an Airport Operations Certificate subjecting the Airport to the same standards as an air carrier airport.

Teterboro is regularly inspected by the FAA. FAA inspections have shown that Teterboro Airport meets or exceeds every Federal safety standard established. The most recent inspection was held on February 3, 1986.

An excellent example of the Airport's concern for safety can be seen in our Crash, Fire, Rescue (CFR) capability. In terms of vehicles, manpower and fire extinguishing materials, the Airport exceeds FAA requirements for airport certification. Specifically, an air carrier airport serving aircraft of similar size to those at Teterboro, requires by FAA standards one quick response vehicle with either 500 lbs. of dry chemical extinguishing agent or 450 lbs. of dry chemical extinguishing agent and 50 gallons of premixed water and A.F.F.F. (Aqueous Film Forming Foam). The Teterboro CFR response includes two vehicles. The first has 1,000 lbs. of dry chemical and 500 gallons of premixed water and A.F.F.F. The second vehicle has 1,000 gallons of water and 150 gallons of A.F.F.F. concentrate.

The Airport also exceeds FAA requirements in the areas of lighting and ground markings. There is a staff of 22 people responsible for the operations and maintenance of the airside facilities on a 24 hour-a-day, 7 day-a-week schedule. These people take a personal interest in Teterboro Airport and are trained to seek out and resolve potential safety problems before they occur.

The Airport also hosts, on a periodic basis, an emergency response exercise involving the airport CFR crews, local fire and police departments, ambulance and rescue squads, and hospitals. This exercise has been a very successful orientation for the participants and a excellent educational process which helps train all of the participants and the participating agencies.

Under Federal law, the airport operators duties and responsibilities related solely to maintaining a sound and safe airport. Pan American, as an airport operator, has no control or authority over, among other things, aircraft in flight, the establishment of flight patterns, aircraft manufacture or maintenance, aircraft pilotage or the training of flight and maintenance crews. All of these areas are strictly the jurisdiction of the FAA and/or the National Transportation Safety Board.

We are specifically gratified to note that our concern for safety and preparedness for emergencies at Teterboro Airport has resulted in an outstanding safety record for many years.

Second only to safety is our concern for the effects of aircraft on the communities in the vicinity of Teterboro Airport. To that end working with the FAA, we have adopted many procedures to alleviate the impact of aircraft noise.

Teterboro has a preferential runway use program designed to utilize the surrounding non-residential areas rather than populated segments of the community. There are noise abatement departure procedures which have been in effect since 1970 for departures from the Airport. Each new operator of turbine powered aircraft is met by Airport Operations Personnel upon their first arrival at Teterboro. At that time, an information package containing noise abatement procedures is given to the pilot and the importance of adherence to those procedures is stressed by the Airport Personnel.

There has also been established a dedicated noise "hot line", solely for the purpose of receiving noise complaints from our neighbors. This system demands that when a complaint is received, action must be taken on that complaint.

Teterboro has a portable noise monitor which is taken out to the communities and all noise monitored at designated locations. This will very shortly be replaced by a permanent noise monitoring system at a cost in excess of $300,000 which will have monitors at various locations to receive noise data on a continuous basis.

We feel that our safety and noise policies place Teterboro at the forefront of general aviation airports in that our concerns for a safe operation also provide that it be environmentally compatible.

Mr. TORRICELLI. I think that is sufficient. I thank you very much, and I thank you, Mr. Bonaventura, and Mr. Crawford, and Mr. Engle.

Thank you, Mr. Chairman.

Mr. MINETA. Commissioner Crawford, and Mr. Engle, and Mr. Bonaventura, thank you very much for your presentation here today.

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[Mr. Bonaventura's and Mr. Crawford's prepared statements follow:]

STATEMENT OF VINCENT BONAVENTURA

Mr. Chairman, my name is Vincent Bonaventura and I am the General Manager of New Jersey Airports for the Port Authority of New York and New Jersey.

I would like to thank Chairman Mineta and members of the Committee for allowing a representative of the Port Authority to testify at this important Congressional Hearing. In addition, I want to thank Congressman Torricelli for bringing the issues of air safety, air traffic congestion in the region and the status of Teterboro Airport to the attention of this committee:

In 1947, both States passed concurrent legislation expressing the policy that, to encourage the integration of air terminals in the Port District into a unified system, the Port Authority is authorized to establish and operate air terminals. Pursuant to this authority, the Port Authority entered into agreements with the City of New York and the City of Newark for the operation of John F. Kennedy International Airport, La Guardia Airport and Newark International Airport. In 1948 the Port Authority purchased Teterboro Airport and in 1967 the Port Authority entered into an agreement with Pan American World Airways (Pan Am) essentially providing for Pan Am to operate Teterboro. With me today, is Mr. Philip Engle, Pan Am's General Manager for Teterboro Airport. Mr. Engle is prepared to answer any questions which you may have with respect to safety procedures at the airport that are within the airport operator's control.

With regard to the actual operation of aircraft, I would note that the FAA is vested with the sole authority over aircraft safety. While I am not a lawyer, I thought it would be appropriate that I quote from a Supreme Court decision in which the Supreme Court explained the authority and responsibility for the control of air traffic, in *Northwest Airlines* v. *State of Minnesota*, 322 U.S. 292 (1943),

"Congress has recognized the national responsibility for regulating air commerce. Federal control is intensive and exclusive. Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection, in the hands of federally certified personnel and under an intricate system of federal commands. The moment a ship taxis onto a runway it is caught up in an elaborate and detailed system of controls. It takes off only by instruction from the control tower, it travels on prescribed beams, it may be diverted from its intended landing, and it signals and orders. Its privileges, rights, and protection, so far as transit is concerned, it owes to the Federal Government alone and not to any state government."

It is, of course, our policy to assist the FAA in carrying out its safety functions wherever practicable.

I am sure you all are aware of the tremendous growth that we have been experiencing at Newark Airport. As a result of many factors, including deregulation, Newark has become the fastest growing airport in the nation. In addition, forecasts indicate a further increase of 30% in annual aircraft movement by the end of this century at Newark International Airport.

The Port Authority has completed, or plans to undertake, a series of modifications at Newark International Airport to the existing taxiway system. These will provide the flexibility to permit the most efficient utilization of the existing runway system and to minimize or eliminate restrictions to aircraft taxing operations. These improvements will also permit the greater utilization of cross-wind Runway 11-29, during periods of heavy demand, so as to make the most effective use of the three runways at Newark Airport.

The rapid expansion of commercial aviation will consume more and more of the capacity at the three major airports we operate in this region, pushing General Aviation activity out to Teterboro and other smaller airports in the region. It is therefore important, we believe, to view the role of General Aviation from a regional context, especially in light of the economic development which it brings into the region. Many corporate decisions to base in Northern New Jersey and in New York are based on the transportation systems, including general aviation, which are available in the region.

In addition to the role the industry plays in the location of corporate headquarters, this economic impact also includes thousands of jobs and hundreds of millions of dollars in regional sales. This availability of transportation has contibuted a great deal to New Jersey's recent economic success and vitality.

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We intend to make every effort to promote continued growth at Newark Airport and I might add at Kennedy and La Guardia as well, which contributes to the economic well-being of the region as a whole. We want to ensure that Teterboro Airport and other General Aviation Airports are in a position to play a positive role in this economic development.

At Teterboro Airport, a Master Planning Study was pursued from 1979 to 1983. The consultants for this study recommended a number of airport improvements based upon projections of general-aviation activity made in 1980. These projects include a new paralleled runway and additional aircraft servicing facilities.

The projections, made as I say in 1980, have not materialized. At this point, we plan to re-study our consultants' findings and projections to determine if the development recommended in the master planning study, including the addition of a runway, should be approved. We hope that this effort can be carried out with the cooperation of both state and federal agencies. In this regard, Mr. Chairman, we look forward to working with the State of New Jersey, the Federal Aviation Administration, representatives of the aviation industry and Congressman Torricelli, as we attempt to serve the needs of the industry and the region into the 21st century.

STATEMENT BY JAMES A. CRAWFORD, ASSISTANT COMMISSIONER, NEW JERSEY DEPARTMENT OF TRANSPORTATION

It is an honor to appear before this committee today on behalf of the New Jersey Department of Transportation and to address this committee's concerns about air traffic safety in New Jersey.

My name is James A. Crawford, and I am Assistant Commissioner, Transportation Services and Planning for the New Jersey Department of Transportation.

I would like to preface my remarks by stating that airport safety is of paramount concern in New Jersey. Our state has some of the nation's most stringent laws and regulations governing aeronautical activities within its boundaries.

Concerning your questions on the issues of air space restrictions, air safety control, and the staffing of those operations: I defer to the Federal Aviation Administration and its respective agencies for testimony. New Jersey does not have jurisdiction over air space and air safety control and their respective staffing needs.

But the New Jersey Department of Transportation does work closely with the FAA and the National Transportation Safety Board in a joint effort to ensure airport safety.

With regard to surface facilities, that is the airports themselves, New Jersey does regulate and inspect all airports within the state, with the following exceptions: Teterboro and Newark International Airport, which are under the jurisdiction of the Port Authority of New York and New Jersey; U.S. military facilities, and the FAA Technical Center in Pomona.

Even in those instances where the state lacks jurisdiction we coordinate activities with the other agencies. This is to assure an adequate and safe air transportation network to serve the needs of the metropolitan areas of New York, New Jersey and Pennsylvania.

The Department of Transportation is working with the FAA and with airport operators and owners, to provide a system of reliever airports for general aviation aircraft. The aim is to alleviate some of the congestion around Newark, La Guardia and Kennedy Airports.

New Jersey conducts an ongoing Continuous Systems Study which constantly seeks methods of improving the availability of surface facilities to accommodate the ever-growing aircraft population within the complex system of air traffic and airports in northern New Jersey.

Under this program we have provided assistance for the improvement of Morristown Airport, Essex County Airport, Lincoln Park Airport and Linden Airport, among others.

New Jersey provides financial assistance to all public-use airports. State funding assists sponsors in obtaining federal financing for airport improvements such as runways, taxiways, lighting systems and other safety measures under the Airport Improvement Program.

A bill pending before the New Jersey Legislature would extend the use of these funds to New Jersey municipalities adjacent to airports. It would provide assistance in obtaining special fire/rescue equipment and would encourage mutual aid arrangements for local units responding to emergencies on or near airports.

Since we are unable to totally fund major improvements from state resources, we rely upon the funds that are available to us from the Airport Improvement Program

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trust fund. Even this has it limitations and new methods must be explored to provide upgraded equipment on a timely basis.

For example, provisions could be made through federal legislation that would permit eligible sponsors to purchase and install FAA equipment with a reimbursement program from AIP funds. By breaking the logjam of annual project funding, urgently needed improvements could be initiated immediately and required funding could be programmed in a more stable way.

Actual expansion of existing facilities is virtually impossible. Growth of residential, industrial and corporate complexes has all but negated any physical expansion capabilities of most airports in New Jersey.

An exception to this would be Lincoln Park Airport, a small reliever airport north and west of Newark/Teterboro. This airport is the subject of a Master Plan Study relative to relocation and extension of its runway capability. Although a small general aviation airport, Lincoln Park is designed as a reliever. It would serve the purpose of relieving air traffic from the innermost complex of the metropolitan area.

Most current airport projects are aimed at improving the safety features of a facility to allow more effective handling of air traffic. The smaller outlying airports, termed as relievers, were not originally designed to accommodate the current generation of general aviation aircraft, such as corporate jets. Consequently, runway and taxiway systems and other facilities need updating.

Other airports on the outer fringes of this reliever airport system are capable of accommodating the overflow of smaller general aviation aircraft.

Recognizing a need to provide a total airport system for all users, the State of New Jersey enacted the New Jersey Airport Safety Act of 1983. Under this program the State of New Jersey helps to finance safety improvements for some 60 general aviation airports in the state and has the authority to assist 14 publicly-owned airports in obtaining federal funding for airport improvements.

The New Jersey Department of Transportation's Division of Aeronautics is mandated to inspect all airports in the state, with the exception of those mentioned previously and those certificated by the FAA under FAR Part 139. The New Jersey Department of Transportation issues a license to an airport only when its legally mandated standards are met.

An annual inspection is required before any airport license issued by the State can be renewed.

While there is a jurisdictional division between federal authorities in air space and State responsibility on the ground, there has been an excellent work relationship between agencies to insure a compatible enforcement of the standard regulations.

A major concern of the State of New Jersey has been the unrestrained development of land surrounding airports. Land use legislation was enacted when it became apparent that measures were necessary to control development adjacent to airports. While allowing compatible development to continue, the legislation provides a measure of safety around airports by preventing encroachment upon air space and designated safety areas.

Residential development which would be exposed to any element of danger from an aircraft operation is specifically prohibited within those areas.

While this law cannot relieve those areas now impacted, we are looking to avoid tragic accidents in the future.

We work closely with the FAA, and the National Transportation Safety Board, to insure that our efforts are consistent. Additionally, we frequently meet with our counterparts from other states under the umbrella of the National Association of State Aviation Officials, to establish policies and procedures which are compatible throughout the national air space system.

I thank you for this opportunity to provide you an insight of the responsible approach that the State of New Jersey takes to its vital air transportation system. I assure you that safety of our citizens is paramount, and we would welcome your recommendations for ways to improve the system.

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modes of transport without the necessity of loading or unloading the contents within each time the mode of transport is changed.

"Tandem-axle dump truck" shall mean a single vehicle dump truck with only three axles as follows: a single steering axle and a tandem drive or rear axle.

"Five axle dump trailer" shall mean a combination of vehicles consisting of a truck-tractor drawing unit and a semi-trailer dump trailer drawn unit with a total of only five axles for the entire combination.

"Two axle dump truck" shall mean a single vehicle dump truck with only two axles.

"Four axle dump truck and tri-axle dump truck" shall mean a single vehicle dump truck with only four axles as follows: a single steering axle and three drive or rear axles.

"Three axle and four axle ready-mix transit truck" shall mean a single vehicle designed solely for the purpose of transporting ready-mix construction materials with either: 1. three axles as follows: a single steering axle and a tandem rear or drive axle; or 2. with four axles as follows: a single steering axle and three rear or drive axles.

"Five axle bulk carrier and five axle liquid bulk carrier" shall mean a combination of vehicles consisting of a truck-tractor drawing unit and a semi-trailer bulk or liquid bulk drawn unit with a total of only five axles for the entire combination.

"Two axle liquid bulk carrier" shall mean a single liquid bulk carrier vehicle with only two axles.

"Three axle liquid bulk carrier" shall mean either a single liquid bulk carrier vehicle with three axles as follows: 1. a single steering axle and a tandem drive or rear axle; or 2. a combination of vehicles consisting of a truck-tractor drawing unit with two axles and a semi-trailer liquid bulk drawn unit with a single axle.

"Four axle liquid bulk carrier" shall mean either: 1. a single liquid bulk carrier vehicle with four axles as follows: a single steering axle and three rear or drive axles; or 2. a combination of vehicles consisting of truck-tractor drawing unit and a semi-trailer liquid bulk drawn unit with a total of only four axles for the entire combination.

16:32-2.2 Permanent exemptions

(a) Under authority granted by N.J.S.A 39:3-84.1b, the following class of vehicles registered in the State of New Jersey, is exempted from compliance with the Table of Maximum Gross Weights, N.J.S.A. 39:3-84b(5), known as the "federal bridge formula":

1. Trailers and semitrailers operated under a permit granted under N.J.S.A. 39:4-26.

16:32-2.3 Temporary exemptions

(a) Under authority granted by N.J.S.A. 39:3-84.1b, the following classes of vehicles registered in the State of New Jersey are exempted from compliance with the Table of Maximum Gross Weights, N.J.S.A. 39:3-84b(5), known as the "federal bridge formula," until October 1, 1988:

1. Tandem-axle dump trucks;
2. Five-axle dump trailers;
3. Two-axle dump trucks;
4. Tri-axle dump trucks;
5. Four-axle dump trucks;
6. Three-axle and four-axle ready-mix transit trucks;
7. Five-axle bulk carriers;
8. Two-axle, three-axle, four-axle and five-axle liquid bulk carriers; and
9. Intermodal ocean containers.

(a)

PUBLIC TRANSPORTATION

Financial and Accounting Conditions and Criteria for Bus Operating Assistance Program

Readoption: N.J.A.C. 16:53A

Proposed: February 4, 1985, at 17 N.J.R. 272(a).
Adopted: March 11, 1985 by James A. Crawford, Assistant Commissioner for Transportation Services and Planning.
Filed: March 25, 1985 as R.1985 d.193, without change.

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 27:25-5 et seq.

Effective Date: April 15, 1985.
Expiration Date pursuant to Executive Order 66(1978): April 15, 1990.

Summary of Public Comments and Agency Responses: No comments received.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 16:53A.

(b)

AERONAUTICS

Air Safety and Hazardous Zoning

Adopted New Rule: N.J.A.C. 16:62

Proposed: April 16, 1984 at 16 N.J.R. 860(b)
Adopted: March 20, 1985 by James A. Crawford, Assistant Commissioner for Transportation Services and Planning.
Filed: March 22, 1985 as R.1985 d.173 with substantive and technical changes not requiring additional public notice or comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-32 and "Air Safety and Hazardous Zoning Act of 1983," P.L. 1983, c.260.

Effective Date: April 15, 1985.
Expiration Date under Executive Order 66(1978): April 15, 1990.

Summary of Public Comments and Agency Responses:

On April 16, 1984 the Department published proposed rule at N.J.A.C. 16:62 "Air Safety and Hazardous Zoning" in compliance with the "Air Safety and Hazardous Zoning Act of 1983," P.L. 1983, c.260. Because of the interest expressed in the proposed rule, a Notice of Public Hearing was subsequently published in the New Jersey Register on January 7, 1985 at 17 N.J.R. 58(b), notices also appeared in various newspapers and all commentors were advised. Each affected municipality was individually notified of the place and date of

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the public hearing. A public hearing was held on January 16, 1985, at 10:00 A.M. in Room #140 (Hearing Room) at the Department, at which there was one oral presentor. (Mark Sininsky, Esq; Lakewood Township) Comments were received from the following: Council, City of Linden; Councilman, Joseph Suliga, City of Linden; Solvents Recovery Service of New Jersey, Inc; Assemblyman Thomas W. Long; Bureau of Green Trust Management; Exxon Company, U.S.A.; Assemblyman Thomas J. Deverin; General Motor Assembly Division; Merck Chemical Manufacturing Division; Mrs. A. Woytovich; New Jersey CASP III: New Jersey Alliance of Aviation Business; Township of Branchburg; Township of Fairfield; the Port Authority of NY & NJ; and the Township of Stafford.

Comments: The Council of the City of Linden by resolution opposed the regulations because it will severely impede the growth and development of the Linden Municipal Airport and the acreage surrounding it to the detriment of the entire city and the denial of much needed ratables. Additionally, it would have a disastrous economic impact on The City of Linden, because it proposed a "Prohibitive Zone" wherein plans have been formulated for development. Councilman Joseph Suliga; Committee person Anna Woytovich; Solvents Recovery Service of New Jersey, Inc., Assemblyman Thomas W. Long; Bureau of Green Trust Management; Exxon Company, U.S.A.; Assemblyman Thomas J. Deverin; General Motors Corporation and Merck & Co., Inc.; all expressed similar comments supporting the City of Linden.

Response: The Department's Director of Aeronautics met with the council members, State officials and representatives from the major corporations and expressed the Department's anxiety to insure the resolution of any potential conflict that would affect the economic stability of Linden. Subchapter 7, provides a means by which an airport could adopt a special standard when local conditions require it. It is specifically for unique existing circumstances, such as those at Linden, that the provisions for a special or amended standard exists within the proposed regulation. In further anticipation of exercising such an option, N.J.A.C. 16:62-7.2 concerning Amended and special standards was created and marked as "Reserved" in order to address situations similar to the one of Linden. Additional information available indicates that legislation has been introduced to exempt The Linden Airport from the regulations.

Comment: The F.A.A. Easter Region Office commented that the proposed rules did not include provisions for bringing non-conforming existing "Prohibited Land Uses" under compliance and quite specific in assuring no interference with the continuance of any non-conforming use. The F.A.A. further suggested enforcement of the Federal standard criteria (FAR Part 77) and use Subchapter 7: Provisions for Amended and Special Airport Standards to adopt a special standard for an airport when the Commissioner determines that local conditions require it.

Response: In regard to existing non-conforming land uses, Section 5 of the Airport Safety Act specifically prohibits the Department from requiring the lowering, removal, or other changes to situations existing at the time of rule adoption. Strict enforcement of FAR Part 77 at some larger airports would be contingent upon the adoption of a special standard under Subchapter 7 of this rule. Additionally, new language has been added under 16:62-1.2(m) to ensure that no portion of the rule could be interpreted as relieving a responsible party of agreement entered with the FAA to control airport hazards.

Comment: New Jersey Alliance of Aviation Businesses felt that the regulations were an important step in the right direction. However, the rules did not state a specific date by which the required municipal ordinances must be enacted nor is there any mention of specific penalties to be imposed in cases where municipalities do not enact the required ordinances.

Response: The Department welcomes the endorsement of the regulations and has amended the proposed rule to establish the specific time frame for implementation of ordinances as N.J.A.C. 16:62-10.1.

Comment: The Township of Branchburg stated that an appropriate time limit for revising master plans and land use ordinances should be specified and the relationship of permitted to prohibited uses is confused by the condition to permitted land uses, "except in conjunction with a prohibited land use". The implication of the condition is that such ordinance requirements are not allowed.

Response: The rule has been amended to delete the condition "except in conjunction with a prohibited land use" (see N.J.A.C. 16:62-5.1(a)1).

Comment: The Township of Fairfield stated that the hazard areas delineated 3,000 feet on either side of the runways cause problems since the area covers a considerable amount of existing residential area and some undeveloped tracts. To zone other than residential to conform with the proposed rule would cause serious zoning problems.

Response: The Department may, under Subchapter 7 adopt a special or amended standard to accomodate unique local situations. Petition by local authorities to the Commissioner to consider unique local situations is specifically provided for in the rule to provide for such inquiries or local input.

Comment: The Port Authority of NY & NJ stated that the land development and use at airports, and in surrounding municipalities, continue to be subject to the appropriate regulations of the Federal Aviation Administration (including FAR Part 77—Objects Affecting Navigable Airspace) to which the proposed regulations do not conform. Consideration should be given to additional requirements for areas in the vicinity of runways equipped for low visibility operations.

Response: It is noted that airports under the control of the Port Authority are not subject to these regulations as per N.J.A.C. 16:62-1.2(f). These regulations are not in lieu of the Federal regulatory program, but supplement it. These regulations will promote the general public compliance with FAR Part 77.

Comment: The Township of Stafford stated that the township was in the concluding stages of revising its master plan, updating its development ordinances and codifying all of its ordinances, and felt that it is preferable to include the provisions of the Air Safety and Hazardous Zoning Act of 1983 in these documents. However, without firm guidelines the Township was at a loss as to what to do.

Response: The Department in developing these regulations for appropriate and uniform implementation had to carefully consider the factors of applicable Federal regulations, requirements under the Act, provisions of the Municipal Land

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Use Law, and promoting the greatest degree of local initiative and latitude within the context of "home rule." In reviewing site plans and related issues, the Township should consider in addition to it's current ordinances, the intent of the regulation in regard to its decision.

Speaker at Public Hearing:

Mark Sinisky, Esq., of Lakewood Township stated that the Township does support the proposed rules and has ordinances regulating land use surrounding the airport and requested clarification as to the one to seven ratio, which is basically an upgrade from the runway itself.

Response: Mr. Thomas Thacher, Division of Aeronautics, provided the clarification for Mr. Sinisky, from the drawings which were made a part of the regulations.

The full text of the Public Hearing is on file with Publication and Filings, Office of Administrative Law, Quakerbridge Plaza #9, Trenton, New Jersey 08625 and available for review in the Department of Transportation, ATTN: Administrative Practice Officer, 1035 Parkway Avenue, CN 600, Trenton, NJ 08625, telephone (609) 292-0053.

CHAPTER 62
AIR SAFETY AND HAZARDOUS ZONING

SUBCHAPTER 1. AIRPORT HAZARDS

16:62-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Airport" means any area of land or water, or both, designed and set aside for the landing and taking-off of fixed wing aircraft, utilized or to be utilized by the general public for such purposes, publicly or privately owned, and licensed by the Commissioner as a public use airport or landing strip, or an area which has been determined by the Commissioner to be likely to be so licensed within one year of the determination.

"Airport hazard" means:

1. Any use of land or water, or both, which may create a dangerous condition for persons or property in or about an airport or aircraft during landing or taking-off at an airport; or

2. Any structure or tree which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport.

"Airport Hazard Area" means any area of land or water, or both, upon which an airport hazard might be created or established if not prevented as provided by this chapter.

"Commissioner" means the Commissioner of the Department of Transportation.

"Department" means the Department of Transportation.

"Development" means the construction, *reconstruction*, creation, or establishment of any structure or planting of a tree.

"Director" means the Director of the Division of Aeronautics.

"Division" means the Division of Aeronautics.

"Fast-track" means an accelerated system of application review procedures.

"Person" means any corporation, company, association, society, firm, partnership, joint stock company, individual, the State, and all political subdivisions of the State or any agencies or instrumentalities thereof.

"Structure" means any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, chimneys, and overhead transmission lines.

"Tree" means an object of natural growth.

16:62-1.2 General requirements and provisions

(a) Under the Air Safety and Hazardous Zoning Act of 1983, this chapter establishes minimum standards for the control of airport and aeronautical hazards, and standards for land use adjacent to airports, which the municipalities of this State shall implement. These standards are minimum State standards, and municipalities may adopt more rigorous standards for control of the area and condition under the provisions of the Municipal Land Use Law. The Commissioner may adopt under N.J.A.C. *[16:72-7]* *16:62-7* a special or amended standard for an airport when it is determined that local conditions require it.

(b) No person shall build, rebuild, create or cause to be built, rebuilt or created any object or structure, or plant, or cause to be planted or permit to grow any tree or vegetation, which will interfere with, diminish, change or obstruct the airspace or landing and take-off area available for the landing and take-off of aircraft at public use airports.

(c) Nothing in this chapter shall be construed as limiting the power of the Commissioner regarding the design, placement, location, or operation of airports or other aeronautical facilities.

(d) Municipalities of this State are required to implement and maintain land use and aeronautical hazard control ordinances in accordance with the provisions of this chapter. These ordinances are subject to review by the Commissioner of Transportation.

(e) No ordinance adopted under this chapter shall require the removal or lowering of, or other change or alteration of any structure or tree not conforming to the rules when this chapter was adopted, or otherwise interfere with the continuance of any nonconforming use.

(f) Airport hazard areas adjacent to airports not licensed by the State of New Jersey are not subject to the specific provisions of this chapter. Airports not licensed by the State of New Jersey include Newark International Airport, Teterboro Airport, Atlantic City Airport near Pomona, New Jersey, and military airports. Although the specific provisions of this chapter may not apply to areas surrounding non State licensed airports open to the public, this in no way limits the power of municipalities to enact substantially similar ordinances governing the areas in accordance with the purposes of the Municipal Land Use Law.

(g) All persons are hereby put on notice that the standards of this chapter are minimum Statewide standards. Implementation of these standards does not necessarily guarantee a prudent and comprehensive land use and hazard program suitable for all airports.

(h) In order to expedite the handling of routine applications for permits where the resulting development would have negligible adverse impact under the purposes of this chapter, the Commissioner may institute by written order, fast-track or five day application review procedures. The Commissioner may also establish by written order, classifications of permit applications, and for certain routine applications, a permit application fee of $25.00.

(i) The mechanisms provided for control of aeronautical hazards within the "Air Safety and Hazardous Zoning Act" rely substantially upon local zoning regulations. The powers to enact traditional zoning ordinances upon navigable waters are conferred, and the operational characteristics and pur-

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dictions of water facilities may differ substantially from many land facilities; the provisions of this chapter do not apply to seaplane or water facilities unless otherwise provided for by the Commissioner in N.J.A.C. 16:62-7.1 of this chapter. Any interested person may petition the Commissioner for review of Air Safety and Hazardous Zoning issues under the operation of any Public Use Seaplane Facility.

(j) The Director may provide for informal reviews of permit applications prior to their formal submission to the Department.

(k) Within the provisions of this Chapter, Interstate highways are considered to be a 17 foot vertical development, other public roads are considered to be a 15 foot vertical development, a private road is considered to be a 10 foot vertical development, and railroads are considered to be a 23 foot vertical development.

(l) The review of applications under this chapter is limited to the purposes of this chapter as they relate to the public health, safety and welfare.

(m) In the event that an airport owner or operator has an agreement with the Federal Aviation Administration for the control of airport hazards, the airport owner or operator shall comply with the most protective provisions of both this chapter and any agreement with the Federal Aviation Administration.

*(n) This chapter shall not apply to:

1. Any person who has submitted a complete application, as defined and required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., for approval of the proposed development at the time of the adoption of this chapter.

2. Any person immune to local ordinance, whose proposed development has progressed beyond the preliminary engineering stage, at the time of the adoption of this chapter.*

SUBCHAPTER 2. MUNICIPALITIES

16:62-2.1 Municipal requirements

(a) Each municipality which contains within its boundaries any part of a delineated airport hazard area, as defined by N.J.A.C. 16:62-3.1, shall enact an ordinance or ordinances incorporating the standards promulgated under this chapter. These standards shall also become a part of the masterplan of development for each affected municipality which has a masterplan.

(b) Each municipality affected under this chapter shall transmit to the Division at time of adoption, amendment, or when requested, a valid copy of the ordinance(s) and a local development masterplan shall be transmitted to the following address:

New Jersey Department of Transportation
Division of Aeronautics
Air Safety and Hazardous Zoning Permits
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

(c) The Director will review ordinances and masterplans enacted by municipalities to implement the standards of this chapter.

(d) No variance, or other relief from the standards promulgated by or under this chapter may be granted by a municipality to itself or any person except upon the condition that the variance or relief is contingent upon the issuance of a permit allowing the variance or relief by the Commissioner.

(e) Municipalities which contain within their boundaries airports regulated by the provisions of this chapter, may not hereafter classify those airports as non-conforming land use within the context of their ordinances or master plans of development. Those municipalities which may currently classify an airport as non-conforming land use within the context of their ordinances or master plans of development, shall amend those ordinances or plans to eliminate that non-conforming status.

SUBCHAPTER 3. DELINEATION OF AIRPORT HAZARD AREAS

16:62-3.1 Delineation of Airport Hazard Areas

[This subchapter defines those areas which are Airport Hazard Areas as regulated by this chapter and describes the methodology used to delineate Airport Hazard Areas.]

(a) This subchapter describes the methodology to be used in delineating Airport Hazard Areas.

(b) The methodology will be applicable for most airports in New Jersey. However, in certain instances, as a result of local conditions, it may be necessary to establish special standards for an airport. Subchapter 7 of these regulations has been reserved for this purpose.

16:62-3.2 Methodology used to delineate Airport Hazard Areas

*[(a) Airport Hazard Areas are delineated by the establishment of subzones of standard sizes around and off the ends of runways and airports open to the public.

(b) The two types of subzones comprising an Airport Hazard Area are the RUNWAY SUBZONE and the RUNWAY END SUBZONE.

1. The RUNWAY SUBZONE of an Airport Hazard Area is an area, rectangular in shape, which has a common and shared centerline in respect to the runway it geometrically surrounds.

i. The width of the RUNWAY SUBZONE of the Airport Hazard Area from its longitudinal sides to the runway centerline is 1175 feet. This gives the RUNWAY SUBZONE of the Airport Hazard Area a total longitudinal width of 2350 feet along its entire length.

ii. The length of the RUNWAY SUBZONE of the Airport Hazard Area is determined by the location of the physical runway end and/or the relationship of the physical runway end along its extended centerline to the property or easement line of the airport. The length of the RUNWAY SUBZONE of the Airport Hazard Area is the length of the runway between the physical ends of the runways. When the physical end of a runway is closer than 200 feet (along its extended centerline) to the property or easement line of the airport, the length of the RUNWAY SUBZONE of the Airport Hazard Area shall not be measured from that physical runway end. Instead it should be measured from that point on that runway end on the runway centerline 200 feet inside of the airport property or easement line. In this case, a portion of the end of a runway may extend beyond the bounds of the RUNWAY SUBZONE of the Airport Hazard Area.

iii. The methodology used to delineate the RUNWAY SUBZONE of an Airport Hazard Area is further graphically depicted in Figure 1.

2. The RUNWAY END SUBZONE of an Airport Hazard Area is an area, trapezoidal in its geometric construction, which is located at the end of each RUNWAY SUBZONE of an Airport Hazard Area along, and bisected by, the extended centerline of the runway.

i. The length of the RUNWAY END SUBZONE of an Airport Hazard Area is 3000 feet measured from the end of the RUNWAY SUBZONE of an Airport Hazard Area outward from the runway along the extended centerline of the

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runway. This extended centerline bisects the RUNWAY END SUBZONE of the Airport Hazard Area.

ii. The width of the RUNWAY END SUBZONE of an Airport is 2350 feet at its base which is co-located with the end of the RUNWAY SUBZONE of an Airport Hazard Area. The width of the RUNWAY END SUBZONE narrows uniformly outwardly along the 3000 feet length of the RUNWAY END SUBZONE such that its final width is 850 feet at the outward base of the subzone. The runway extended centerline bisects the width measures along the entire length of the RUNWAY END SUBZONE of the Airport Hazard Area.

iii. The methodology used to delineate the RUNWAY END SUBZONE of an Airport Hazard Area is further graphically depicted in Figure 2.]*

(a) An Airport Hazard Area shall be established for each runway at an airport.

(b) Each Airport Hazard Area shall consist of a RUNWAY SUBZONE and two RUNWAY END SUBZONES.*

(c) The overall Airport Hazard Area for an airport is geometrically constructed by defining and locating the RUNWAY SUBZONE and RUNWAY END SUBZONES for each runway open to the public on an airport open to the public. The outermost borders of the subzones comprise the outermost boundary of the Airport Hazard Area. The area within those outermost boundaries is that area regulated by the provisions of this chapter and is the Airport Hazard Area for an airport.

(d) The methodology used to delineate the overall construction and outermost boundaries of the Airport Hazard Area for an airport is further graphically depicted in Figure 3.

*16:62-3.3 Delineation of the RUNWAY SUBZONE

(a) The RUNWAY SUBZONE of an Airport Hazard Area shall consist of a rectangle having the same centerline and length as the runway, unless a shorter length is necessitated by limited property ownership at the airport.

(b) The width of the RUNWAY SUBZONE shall be 2350 feet.

(c) The exact length of the RUNWAY SUBZONE shall be determined by one of the two following methods.

1. For most airports, the length of the RUNWAY SUBZONE will be the same as the physical length of the runway.

2. If the physical end of a runway is closer than 200 feet from the property or easement line of the airport, as measured along the runways extended centerline, then the end of the RUNWAY SUBZONE shall be defined by a line drawn perpendicular to the runway centerline at a point 200 feet inside of the airport property or easement line. In this case, a portion of the runway will extend beyond the bounds of the RUNWAY SUBZONE.

(d) The methodology used to delineate the RUNWAY SUBZONE of an Airport Hazard Area is illustrated in Figure 1.*

*16:62-3.4 Delineation of the RUNWAY END SUBZONES

(a) The RUNWAY END SUBZONES of an Airport Hazard Area shall consist of trapezoids located at either end of the RUNWAY SUBZONE along the flight approach and departure path.

(b) Each RUNWAY END SUBZONE shall extend 3000 feet from the end of the RUNWAY SUBZONE, as measured along the extended centerline of the runway.

(c) The base of the RUNWAY END SUBZONE shall be defined by the end of the RUNWAY SUBZONE, and shall have a width of 2350 feet. The width of the RUNWAY END SUBZONE shall narrow as the distance from the end of the RUNWAY SUBZONE increases. Its final width shall be 850 feet.

(d) The methodology used to delineate the RUNWAY END SUBZONE of an Airport Hazard Area is illustrated in Figure 2.*

SUBCHAPTER 4. *OBSTRUCTION* ORDINANCE STANDARDS

16:62-4.1 Minimum obstruction ordinance standards

(a)This subchapter defines the minimum obstruction ordinance standards which a municipality must enact pursuant to the provisions of this chapter, and describes the methodology used to define vertical development allowed within an Airport Hazard Area.

(b) Notwithstanding the provisions of this chapter, the primary regulation of airport development, airport property use, internal dimensional criteria, and vertical development on airports is accomplished within N.J.A.C. 16:54.

16:62-4.2 Methodology used to define vertical development allowed within an Airport Hazard Area

(a) Minimum obstruction ordinance standards establish the vertical limits up to which structures or trees may be allowed to be developed or grow within an Airport Hazard Area.

(b) Minimum obstruction ordinance standards are vertical standards measured in respect to elevations whose datum is the horizontal plane established by runway elevations. For example, if a point in an Airport Hazard Area permits at a specific point development up to "X" feet, that means "X" feet above the runway horizontal plane and not "X" feet above the natural grade of the land at that point in the Airport Hazard Area. This provision is further graphically depicted in Figure 4.

(c) The vertical standards within the RUNWAY SUBZONE of an Airport Hazard Area are determined first by establishing the elevations at the runway centerlines at the ends of the RUNWAY SUBZONE of the Airport Hazard Area. From those elevations at the RUNWAY SUBZONE ends, a line is run 90 degrees outward from each side of the runway centerline for a distance of 125 feet. Within the area defined by these four points, no development is allowed above the natural grade of the soil except for runway and flight safety equipment.

1. The vertical standards within the remainder of the RUNWAY SUBZONE of an Airport Hazard Area are determined by establishing planes from the edges of the longitudinal 0 foot development restriction line established in N.J.A.C. 16:62-3.2(b)1.ii. which slope upward and outward at a rate of seven feet horizontally to one foot vertically. This upward plane ceases when it reaches the outer longitudinal borders of the RUNWAY SUBZONE of any Airport Hazard Area at the elevation of 150 feet above its starting point at the longitudinal zero foot development line.

2. The methodology used to establish the vertical standards within the RUNWAY SUBZONE of an Airport Hazard Area is further graphically depicted in Figure 5.

(d) The vertical standards within the RUNWAY END SUBZONE of an Airport Hazard Area are determined by first establishing a plane with a rising slope of one foot upward to 20 feet outward from the end of the RUNWAY SUBZONE to the outermost end of the RUNWAY END SUBZONE. This plane is bisected by the extended runway centerline and is 250 feet in total width at its innermost dimension and widens uniformly along its 3000 foot length so as to have a total width of 850 feet at its outermost dimension where it inter-

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sects with the outermost portion of the RUNWAY END SUBZONE at the elevation of 150 feet above its starting point at the zero foot development line.

i. The vertical standards within the remainder of the RUNWAY END SUBZONE of an Airport Hazard Area are determined by establishing sloping planes from the outermost longitudinal edges of the plane established in (d) above. These planes rise upward at a rate of one foot upward to seven feet outward from the plane established in (d) above to where they meet the outermost longitudinal boundaries of the RUNWAY END SUBZONE at the elevation of 150 feet.

ii. The methodology used to establish the vertical standards with the RUNWAY END SUBZONE of an Airport Hazard Area is further graphically depicted in Figure 6.

SUBCHAPTER 5. LAND USE *ORDINANCE STANDARDS*

16:62-5.1 Minimum land use standards

(a) Within the hazard areas delineated in N.J.A.C. 16:62-3.1, each municipality shall implement under N.J.A.C. 16:62-2.1, ordinances which implement the following standards for land use around airports. Prohibited land uses are specifically prohibited without the written approval of the Commissioner. Prohibited land uses may be allowed by the Commissioner on airport property when they are determined necessary by the Director for air commerce purposes or for the operation of the airport and its vendors directly serving air commerce needs. *An example of this is a flight school.*

1. Permitted land uses: *[(except in conjunction with a prohibited land use)]*

i. Industrial;
ii. Commercial;
iii. Open space;
iv. Agricultural;
v. Transportation;
vi. Airport.

2. Specifically prohibited land uses

i. Residential (dwelling units);
ii. Planned unit developments and multifamily dwellings;
iii. Hospitals;
iv. Schools;
[v. Bulk flammable or bulk compressed gas storage;]
v. Above ground bulk tank storage of compressed flammable or compressed toxic gases and liquids;
[vi. Single uses that would attract crowds in excess of 500 persons;]
vi. Within the RUNWAY END SUBZONES only, the above ground bulk tank storage of flammable or toxic gases and liquids;
[vii. Incineration facilities;]
*vii**[viii.]* Uses that may attract massing birds, including land fills;
*viii**[ix.]* Above grade major utility transmission lines and/or mains.

(b) Subject to review by the Director, a municipality may implement land uses substantially similar to those listed as permitted land uses in (a)1i-vi above as long as they are in accord with the intents of this chapter as determined by the Commissioner. A municipality may not, however, implement a land use ordinance or plan which may have the effect of allowing or promoting the establishment of specifically prohibited land uses as determined by the Commissioner. A municipality further may not implement ordinances which would have the effect of preventing routine improvement of an aeronautical facility or airport within the area zoned under this chapter.

SUBCHAPTER 6. PERMIT FOR CREATION OR EXPANSION OF A PROHIBITED LAND USE OR VERTICAL HEIGHT DEVELOPMENT WITHIN AN AIRPORT HAZARD AREA

16:62-6.1 General provisions

(a) The Commissioner may issue a permit for creation or establishment of a nonconforming use or vertical height development within an airport hazard area upon determination that:

1. An application in conformance with the provisions of this section has been properly submitted;

2. A conditional development approval has been granted by the appropriate municipal agency, if required;

3. The creation of the prohibited land use or vertical height development will not in fact create an additional airport hazard limiting the size of the area available for landing, taking-off and maneuvering of aircraft; and

4. Creation or establishment of the prohibited land use or vertical height development will not harm the public health, safety and welfare.

(b) No person may commence the construction or development of any structure, land use, or condition which is contrary to the standards of this chapter without a valid permit issued by the Commissioner.

(c) In considering an application for a permit, the Director may confer with and seek additional information from the applicant or any other interested party, agency, or governmental organization.

(d) In the review of an application, the Department may take into consideration any factor relevant to the hardship demonstrated by the applicant and any information relevant to the public health, safety and welfare.

16:62-6.2 Municipal approval

(a) A developer of a project requiring creation or establishment of a prohibited land use or vertical height development shall first apply for development approval from the appropriate municipal agency. If the municipal agency approves of the development, that approval shall be conditioned on the developer applying for and receiving a permit from the Commissioner in accordance with this section. Construction, development or creation of any prohibited land use shall not commence until a permit has been issued by the Commissioner.

(b) An application for a permit will only be considered by the Department if accompanied by a letter from the municipality requesting the permit.

(c) Any person proposing to create or establish a prohibited land use or vertical height development in a designated airport hazard area not subject to municipal ordinances established in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D), shall present the proposed development to the municipal governing body, which shall be considered the municipal agency for purposes of these rules.

16:62-6.3 Permit application requirements

(a) To be considered complete, an application for a permit for creation of a prohibited land use or vertical height development within an airport hazard area must include the following:

1. Copies of a completed airport hazard permit application form;

2. A letter requesting issuance of a permit by the Department from the municipal agency having jurisdiction over the development, together with a copy of the conditional ap-

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proval for development granted by the municipal agency, if required;

3. A detailed statement of the hardship condition necessitating the application for variance or relief, and a showing that the public health, safety and welfare will not be harmed by the creation of the prohibited land use or vertical height development;

4. Certification that the applicable airport owner(s) or authority were notified of the permit application by registered mail;

5. Submission of a non-refundable $75.00 permit application fee;

6. Submission of the plans, specifications and construction drawings detailing the substance of the proposed development for which a permit is sought. Site plans shall bear the raised seal of a New Jersey licensed Professional Engineer, Professional Planner, Land Surveyor, or Architect and shall show the location of property lines, the location of runways, the boundaries of the airport hazard area, and elevations of proposed development showing where and by what amount the development exceeds the minimum standards for vertical development adopted under this chapter; and

7. Any other material deemed necessary to the permit application by the Director.

(b) Applications for permits issued under the provisions of this chapter and correspondence to the Department relating to the provisions of this chapter should be forwarded to the following address:

New Jersey Department of Transportation
Division of Aeronautics
Air Safety and Hazardous Zoning Permits
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

16:62-6.4 Permit review procedures

(a) For routine applications, review of an application shall be completed by the Division within 90 days of the date on which an application is accepted as complete.

(b) Non-routine cases, requiring the review or approval of a Federal agency or another State agency prior to issuance of a permit, shall be conducted in as timely a fashion as possible. The Director shall notify the applicant of a delay in the review process necessitated by another agency's involvement. The notification shall be provided prior to 80 days following the date of acceptance of a complete application, and shall include an estimate of the date by which a completion of the review process can be anticipated.

(c) For routine cases not requiring review by other agencies, the Division may, at its discretion, extend the 90-day review period by 30 days if determined necessary to complete the review process. The applicant and affected municipality shall be notified of this extension by the Department at least 15 days prior to the expiration of the 90-day period.

(d) Following review of an application by the Division, the Director shall determine whether to recommend to the Commissioner that the permit be granted or denied.

(e) If the Director recommends denial, the applicant and municipal agency will be notified within five working days of the date of decision. An applicant who has been so notified by the Director may request an appeal before the Office of Administrative Law pursuant to N.J.S.A. 52:14B-1 et seq and N.J.A.C. 1:1. The applicant shall notify the Division by certified mail within 14 calendar days of notification of denial that an appeal will be forwarded to the Office of Administrative Law.

(f) Pursuant to N.J.S.A. 52:14B-1 et seq and N.J.A.C. 1:1, a final determination to either deny or grant the permit application will be made by the Commissioner subsequent to the filing of an Initial Decision by the Administrative Law Judge who conducted the hearing.

16:62-6.5 Permit application decisions

(a) The Commissioner may take one of the following actions:

1. Approve the application as submitted. The applicant will receive a permit which shall be effective during the same period as the development approval granted by the municipal agency. The Department will mail a copy of the permit to the applicant and municipal agency within five working days of the date of approval.

2. Deny the application. The Department will mail a copy of the permit denial to the applicant and municipal agency within five working days of the date of decision.

3. Phased or partial approval. Where conditions warrant, the Commissioner may provide for a phased approval of an application. The Commissioner may also approve part of an application and deny the remainder. The nature of approvals granted, and of the denials, shall be transmitted to the applicant and municipal agency within five working days.

SUBCHAPTER 7. PROVISIONS FOR AMENDED AND SPECIAL AIRPORT STANDARDS

16:62-7.1 General provisions

(a) Under Section 5 of the Airport Safety Act of 1983 the Commissioner may, notwithstanding any other provision of this chapter, adopt an amended or special standard for an airport when he determines that local conditions require it. These standards shall be adopted under the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

16:62-7.2 Amended and special standards (Reserved)

SUBCHAPTER 8. LIABILITY

(a) Violation of any provision of this chapter may be grounds for fine, modification, suspension or revocation of any license issued under Title 6 of the New Jersey Statutes Annotated.

(b) The Commissioner may institute, in any court of competent jurisdiction, an action in the name of the State to prevent, restrain, correct, or abate any violation of any provision of this chapter and by way of injunction or otherwise, relief from the court.

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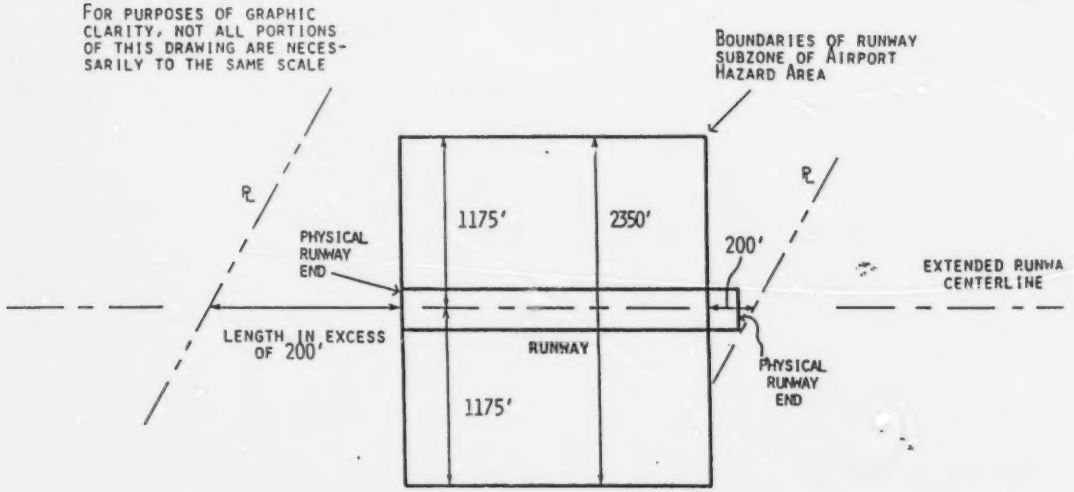
FIGURE 1.



GRAPHIC DEPICTION OF THE GENERAL CONSTRUCTION
OF THE RUNWAY SUBZONE OF AN AIRPORT HAZARD AREA

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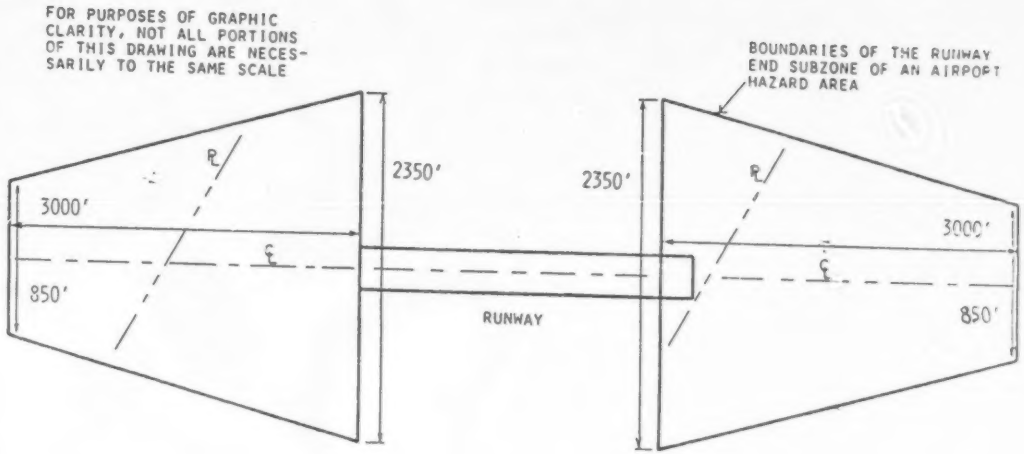
FIGURE 2.

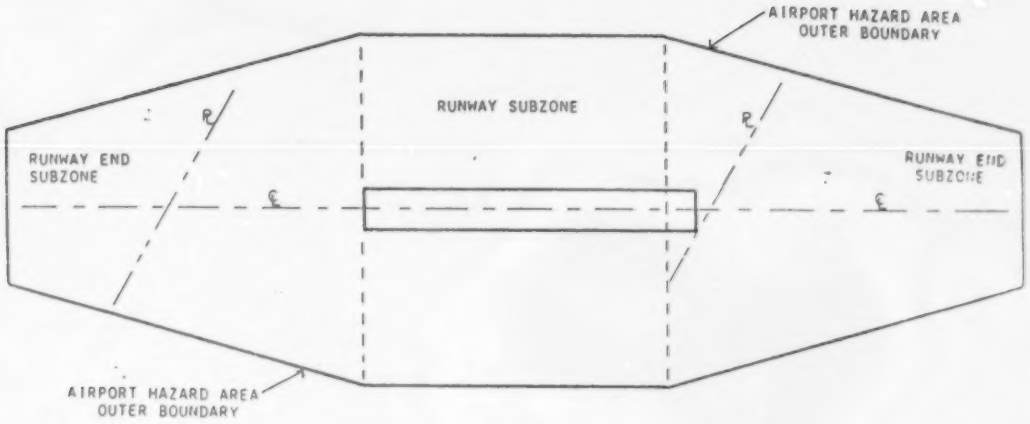


GRAPHIC DEPICTION OF THE GENERAL CONSTRUCTION OF THE RUNWAY END SUBZONE(S) OF AN AIRPORT HAZARD AREA

160

FIGURE 3.

FOR PURPOSES OF GRAPHIC CLARITY, NOT ALL PORTIONS OF THIS DRAWING ARE NECESSARILY TO THE SAME SCALE



GRAPHIC DEPICTION OF THE GENERAL OVERALL CONSTRUCTION AND OUTERMOST BOUNDARIES OF AN AIRPORT HAZARD AREA

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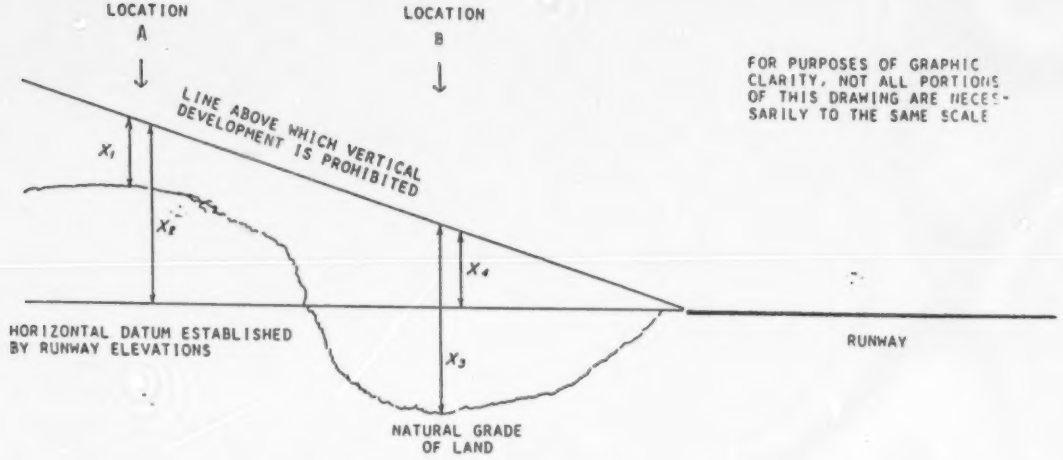
FIGURE 4.



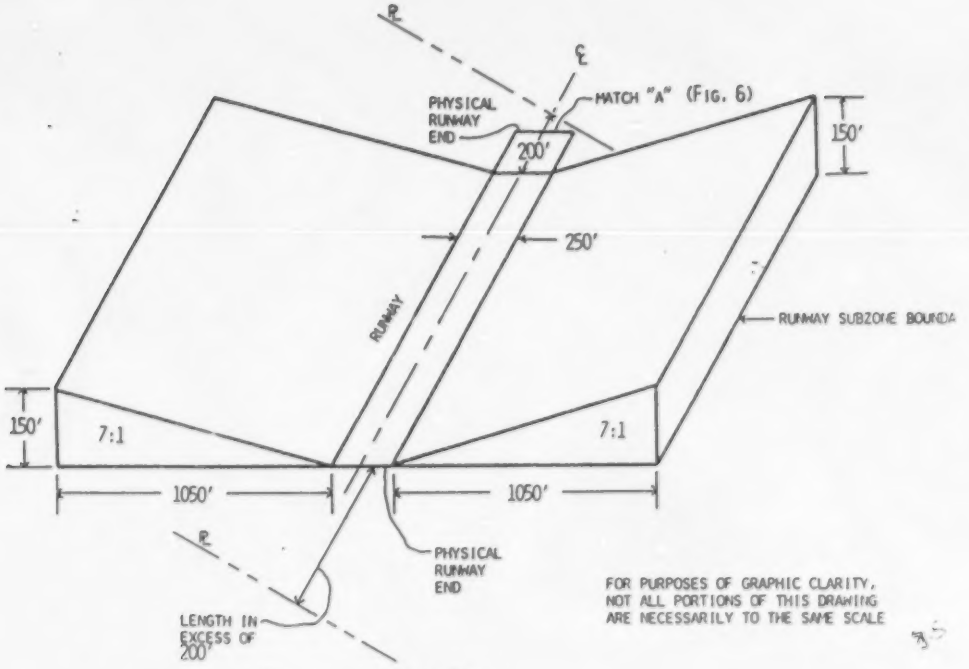
FOR PURPOSES OF GRAPHIC CLARITY, NOT ALL PORTIONS OF THIS DRAWING ARE NECESSARILY TO THE SAME SCALE

THE MINIMUM OBSTRUCTION ORDINANCE STANDARDS RELATE DIRECTLY TO THE HORIZONTAL DATUM ESTABLISHED BY RUNWAY ELEVATIONS AND NOT THE HEIGHT ABOVE THE NATURAL GRADE OF THE LAND. FOR EXAMPLE, AT LOCATION A AN ORDINANCE MAY REFERENCE A HEIGHT RESTRICTION X_2 FEET, BUT AT THAT LOCATION THE DEVELOPABLE HEIGHT RESTRICTION ABOVE THE NATURAL GRADE OF THE LAND IS ACTUALLY X_1 FEET. AT LOCATION B THE ORDINANCE HEIGHT RESTRICTION MAY BE X_4 FEET BUT THE DEVELOPABLE HEIGHT RESTRICTION MAY BE X_3 FEET.

162

FIGURE 5.

VERTICAL AND HORIZONTAL PLANES OF RUNWAY
SUBZONE OF AIRPORT HAZARD AREA



FOR PURPOSES OF GRAPHIC CLARITY, NOT ALL PORTIONS OF THIS DRAWING ARE NECESSARILY TO THE SAME SCALE

163

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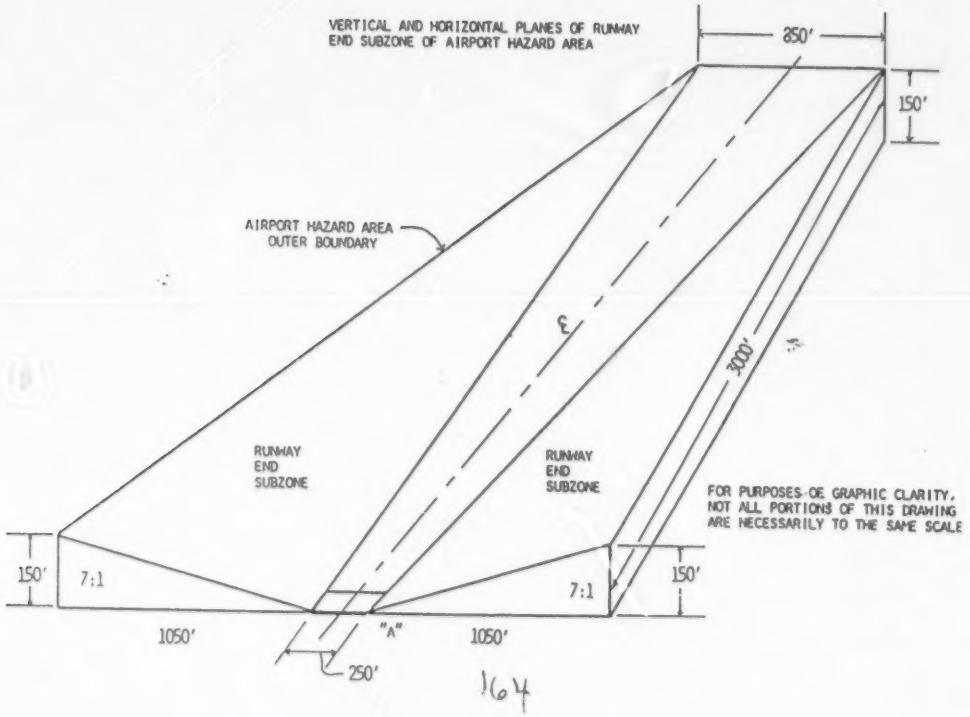
FIGURE 6.



164

ADOPTIONS

(a)

Restricted Parking and Stopping Routes 45 in Gloucester County and U.S. 130 in Salem County

Adopted Amendments: N.J.A.C. 16:28A-1.31 and 1.46

Proposed: August 19, 1985 at 17 N.J.R. 2016(a).
Adopted: September 20, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: October 1, 1985 as R.1985 d.535, without change.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-199.

Effective Date: November 4, 1985.
Expiration Date pursuant to Executive Order 66(1978): November 7, 1988.

Summary of Public Comments and Agency Responses: No comments received.

Full text of the adoption follows.

16:28A-1.31 Route 45

(a) (No change.)

(b) The certain parts of State highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is hereby granted to erect appropriate signs at the following established bus stops:

1.-5. (No change.)

6. Along the northbound (easterly) side in Mantua Township, Gloucester County:

i. Far side bus stop:

(1) Capital Drive—Beginning at the northerly curb line of Capital Drive and extending 100 feet northerly therefrom.

ii. Near side bus stop:

(1) Chestnut Street—Beginning at the southerly curb line of Chestnut Street and extending 105 feet southerly therefrom.

iii. Midblock bus stop:

(1) Center Street—Beginning 200 feet from the southerly curb line of Center Street and extending 140 feet southerly therefrom.

7. Along the southbound (westerly) side in Mantua Township, Gloucester County

i. Midblock bus stop:

(1) Center Street—Beginning 200 feet from the prolongation of the southerly curb line of Center Street and extending 140 feet southerly therefrom.

16:28A-1.46 Route U.S. 130

(a) The certain parts of State highway Route U.S. 130 in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. (No change.)

2. No stopping or standing in Carneys Point Township and Penns Grove Borough, Salem County:

i. Along the northbound side

(1)-(3) (No change.)

(4) From a point 100 feet south of Laurel Avenue to Market Street

(4) From the northerly curb line of Grant Street to the southerly curb line of Grant Street

ii. Along the southbound side

(1)-(4) (No change.)

(5) From the northerly curb line of Regional Drive to the southerly curb line of Grant Street

3.-7. (No change.)

8. No stopping or standing in East Windsor Township, Mercer County

i. (No change.)

(b) (No change.)

(b)

AERONAUTICS

Air Safety and Hazardous Zoning Development Permits; Nonconforming Uses; Implementation Deadlines

Adopted Amendment: N.J.A.C. 16:62-5.1
Adopted New Rules: N.J.A.C. 16:62-8, 9 and 10

Proposed: August 5, 1985 at 17 N.J.R. 1869(a).
Adopted: September 6, 1985 by James A. Crawford, Assistant Commissioner for Transportation Services & Planning.
Filed: October 1, 1985 as R.1985 d.537, without change.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-32 and "Hazardous Zoning Act of 1983," P.L. 1983 c. 250.

Effective Date: November 4, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): April 15, 1990.

Summary of Public Comments and Agency Responses: No comments received.

Full text of the adoption follows.

16:62-5.1 Minimum land use standards

(a)-(b) (No change.)

(c) Municipalities shall, when developing land use ordinances to conform with the provisions of this chapter, adopt general land use provisions within the ordinance to minimize unwarranted concentrations of persons within Airport Hazard Areas, especially along the extended runway centerlines within RUNWAY AND SUBZONES.

SUBCHAPTER 8. PERMITS FOR DEVELOPMENTS IMMUNE TO LOCAL ORDINANCE

16:62-8.1 General Provisions

(a) In the event of a proposed development within an Airport Hazard Area which is immune to local ordinance, the standards of this chapter still apply to such proposed development

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(b) Any persons proposing a development immune to local ordinance within an Airport Hazard Area shall make application to the Department in accordance with N.J.A.C. 16:62-6.1 and 16:62-6.3. The requirement for local approval under N.J.A.C. 16:62-6.2 and 6.3(a)2 is waived, and the permit application fee under N.J.A.C. 16:62-6.3(a)5 is waived.

(c) The Department shall review application for permits for developments immune to local ordinance in a manner with other applicable provisions of this chapter.

SUBCHAPTER 9. EXISTING LAND USES NOT CONFORMING TO THE STANDARDS OF THIS CHAPTER

16:62-9.1 General provisions

(a) No ordinance adopted under this chapter shall require the removal or lowering of, or other change or alteration of any structure or tree not conforming to the rules when this chapter was adopted.

(b) Within the context of an ordinance adopted to conform with the standards of this chapter, a preexisting land use not in conformance with the rules may at the discretion of the municipality, be classified within such an ordinance as either "nonconforming" or "conditional." For such preexisting land uses, a property owner may seek and a municipality may grant on a one time basis, up to ten percent expansion of such a nonconforming or conditional use without having to obtain a permit from the Commissioner under the provisions of this chapter.

(c) The provision in (b) above allowing up to a ten percent one time expansion of preexisting land use not in conformance with the rules of this chapter applies to land use provisions of this chapter only.

Expansion of a vertical development not in conformance with the rule of this chapter may be done only after the granting of a permit from the Commissioner, under the provisions of this chapter.

SUBCHAPTER 10. IMPLEMENTATION DEADLINES

16:62-10.1 General provisions

(a) Municipalities affected by the provisions of this chapter shall adopt ordinances implementing the standards of this chapter within 12 months of the adoption of this chapter.

(b) Upon the adoption of this chapter, no municipal body may grant variances or subdivisions in an Airport Hazard Area under their existing ordinances whose purpose would be contrary to the standards of this chapter.

SUBCHAPTER 11. LIABILITY

(No change in text.)

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Teachers' Pension and Annuity Fund Determination of Last Year's Salary

Adopted Amendments: N.J.A.C. 17:3-6.21

Proposed: September 16, 1985 at 17 N.J.R. 2239(a).
Adopted: October 3, 1985 by Board of Trustees, Teachers' Pension and Annuity Fund, Anthony Ferrazza, Secretary.
Filed: October 9, 1985 as R.1985 d.547, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:66-56.

Effective Date: November 4, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): June 6, 1988.

Summary of Public Comments and Agency Responses:
A comment was received from the New Jersey Principals and Supervisors Association requesting that the last sentence in the rule be deleted. The Division has accepted the comment and has deleted the language in the adopted rule.

Full text of the adoption follows (deletion from proposal shown in brackets with asterisks *[thus]*).

17:3-6.21 Determination of last year's salary; veterans (veteran one-half pay retirement)

For a member reported on a monthly basis under a 10-month contract, use the member's final 10 months of creditable salaries upon which contributions were made for the period immediately preceding retirement; on a 12-month contract basis, his or her final 12 months of service; combination of 10- and 12-month contracts, on a proportional basis. *[The months for which no contributions were made shall be counted as zero.]*

STATE INVESTMENT COUNCIL

(b)

United States Treasury and Government Agency Obligations

Adopted Amendments: N.J.A.C. 17:16-6.1

Proposed: September 3, 1985 at 17 N.J.R. 2093(a).
Adopted: October 10, 1985 by State Investment Council, Roland M. Machold, Director, Division of Investment.
Filed: October 15, 1985 as R.1985 d.552, without change.

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Mr. MINETA. At this time I would like to call on a panel made up of Mr. Peter McHugh from the Aircraft Owners & Pilots Association, and Mr. Robert Cooke, vice president of operations for National Business Aircraft Association.

We are, frankly, anxious to grab a plane to get back to Washington, DC, so if our two compatriots will abbreviate their statements, their full statements will be made a part of the record. We would appreciate their expediting their statements. Mr. McHugh, if you will proceed.

TESTIMONY OF PETER C. McHUGH, VICE PRESIDENT, AVIATION POLICY, AIRCRAFT OWNERS & PILOTS ASSOCIATION; AND ROBERT A. COOKE, VICE PRESIDENT, OPERATIONS, NATIONAL BUSINESS AIRCRAFT ASSOCIATION, INC.

Mr. MCHUGH. Thank you, Mr. Chairman.

The subjects which are the focus of this hearing are significant. I would like to focus on just a couple of the key points that I made in my written testimony. I will try to gloss over the rest.

I think the most important point that has been made today is that the airspace system is safe. I agree with Senator Lautenberg and even Mr. Del Balzo on that point. The airspace system in the skies over New York and New Jersey are safe, and aviation and general aviation is the mucilage that will hold the transportation system together.

Budget decisions will dictate just what the airspace system improvements the FAA is permitted to make in the future, however, and I share your concerns expressed in your comments at the ATCA symposium last week about Gramm-Rudman. It is too bad that today's hearing follows so closely after the Teterboro accident. I think it makes it difficult for even the most stoic of us to view the airspace and access issues that you all have raised here in a dispassionate way. But I am confident that you will not permit reaction to that isolated incident to jeopardize the utility or efficiency of airspace here, or to adversely affect the ATC system, which we know to be the best and safest in the world. It is clearly too early to second guess the results of NTSB's still incomplete investigation anyway.

I think there will continue to be slow growth in the aviation population. And we know that airports nationally are shrinking in number. I think that the air traffic control system has sufficient capacity and flexibility to accommodate that growth, however, and the national airspace system plan will significantly improve capability within centers and terminal areas to permit them to handle greater traffic loads.

But, please don't misconstrue that remark to be broad support from AOPA for the so-called, Brown Book. We continue to have serious doubts about many elements of the plan. Today we've got to focus on the prime contributors to congestion and delay in the New York and New Jersey airspace. A product of deregulation, hubbing has created very real problems for ATC. Deregulation has precipitated wide variations in the demand for ATC services as air carriers have precipitously hubbed and spoked themselves into and out of various terminal areas around the Nation. It is time for the FAA

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to answer your questions about staffing levels, equipment improvements, and airspace system enhancement. But I think that attention should also be focused on the very real contribution that the air carriers make to congestion in northern New Jersey.

Let me quickly put the aviation population in perspective for you. General aviation is 709,000-plus pilots flying 220,000 aircraft approximately 32 million hours a year. The carriers operate fewer than 2 percent of the registered aircraft, and fly less than 17 percent of those hours on an annual basis. General aviation is a most important part of this Nation's transportation system, yet its access to the major terminal areas is severely restricted; to the extent that in the three major airports in the New York area, only 9 percent of the operations can be attributed to general aviation.

Yet, Mr. Bell from NATCA and others, would have you believe that GA has no right to this access. That it is an invader. Well, I have not yet met or talked to a controller who agreed to abrogate his services to aviation in the way this statement seems to suggest. Air carriers operate primarily from fewer than 30 airports in the country, and provide some service to another 700, plus or minus a few. It is general aviation that provides air access to more than 15,000 remaining landing sites around the country, and yet hardly a day passes when we don't hear some new proposal to exclude GA from air carrier airports and/or airspace. And we get tired of hearing that.

I would like to describe some of the restrictions which exist today here that discourage GA access to the New York metropolitan area. The TCA has been said to improve safety by providing separation service to aircraft within its boundaries. Utilized properly, aircraft should be brought into TCA's at very high altitudes where those high performance aircraft are most efficient. If the FAA would return to what they used to call the, Keep Them High Program, it would provide the opportunity to raise TCA floors and to maximize separation between nonparticipating aircraft, the TCA aircraft, and objects on the ground.

The capability to provide separation is constrained, however, by equipment and personnel. Radar separation does not permit the most efficient use of airspace. When there are insufficient people to handle traffic loads, or when equipment outages occur, the TCA responds by denying access or by holding people outside, at the periphery or at fixes. And both of these increase congestion outside the boundaries of the TCA and over your towns here, in northern New Jersey. Other aircraft are then forced to circumnavigate the TCA, and often then are denied ATC services they need. And you heard some suggestions about weather information not being available to GA operations.

By the way, the FAA's new airspace, which they have called the ARSA [airport radar service area], has provoked numerous safety related complaints from our members, particularly at Islip, and now more recently in the California area.

Airline scheduling is a problem. You heard that from the controllers and you heard it from GAO. The irrational and unilateral decisions by airline companies in scheduling practices and utilization of hub and spoke without regard to existing and near term airport and ATC system capacity, greatly complicates the FAA's task

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of planning and providing adequate service to all airspace system users. Current airport facilities and ATC system terminal environment simply cannot expand or contract to meet the whims or demands that airline management conjurs, ignoring known limitations.

Newark has produced such an example. Not only has general aviation been virtually driven from that field to Teterboro and elsewhere by People Express' decision to base there, but the airspace system is still adjusting to aircraft operation counts at both JFK and La Guardia. Now, we have been told that we can expect another 100-percent increase in the amount of traffic coming out of Newark attributable to the same air carrier.

We believe, and propose, that air carriers should be required to announce hub selections in advance. These announcements should permit public and FAA review and comment, so as to provide ATC an opportunity to "gear up" for this increased demand for service. And I've got to ask, is it valid to raise the "business decisions," issue as a whipping boy at Teterboro, and not do the same thing at Newark or other future hubs.

Further, as long as the carriers continue to schedule 17 operations at exactly 8 o'clock in the morning at La Guardia, 14 at exactly 8 in the evening at Newark, and 19 at exactly 4:30 p.m. at Kennedy, there are going to be delays and there are going to be airspace exclusions. And I might suggest that the 400 People's aircraft operating out of Newark makes significantly more noise than many, many other aircraft that are operating in this area today.

More than 80 percent of controllers surveyed recently believed that their workload was too high. And I would like to tell you that I believe probably that I could say the same thing for myself and I know that you Congressmen can, but I've got to tell you that they cited airline schedules as being one of the top three reasons for their workload being that high. So clearly, we have identified a problem that needs to be addressed.

General aviation is not the cause of airport congestion, nor does it make even a significant contribution to that problem. GA averages only a few operations, not per minute, but per hour during peak times here. In fact, GA avoids the peak periods when it is possible, even though our members depend on ready access to the metropolitan area both for livelihood and convenience.

We think landing fees here in some cases are arbitrary, discriminatory, and certainly deter general aviation from access to the metropolitan area. You know, of course, what the landing fees are, and that there is an additional $100 surcharge assessed to GA in addition to the regular landing fees.

Slots—you know that capacity constrained airports under the high density rule slots represent a very real sanction against GA. There are just simply too few so-called other slots, the ones that GA is permitted to compete for to accommodate the demand. And there is no assurance that GA can retain those slots in the face of economic competition with the airlines when buy/sell becomes a reality.

And I would like to digress a minute. Congressman Torricelli, I wonder if you would accept restrictions such as those you'd offer to general aviation when you get in your automobile to drive in com-

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petition with buses. Or perhaps half-full buses, or perhaps with taxicabs. Should general aviation services, which really do support your communities, step aside for the air carriers, or should 727's step aside for 747's or half full 747's?

Airspace and landing rights are a national resource. And it is one we pay taxes for to utilize. It is important to us for our livelihoods and our transportation system. Who and how would you propose, for example, to select who can and cannot operate in the system.

New runways and heliports would largely solve the airport capacity problem, relieving air space congestion at the same time. And I think this might eliminate some of the frustration that Senator Lautenberg expressed this morning when on a seemingly clear day the traffic management unit holds departures here because of bad weather in Washington, DC.

New York airspace and aeronautical charts that depict it. The charts are important tools which assist the pilot in conforming to the special restrictions of the New York airspace. A quick look at the New York terminal chart, and I noticed, Mr. Mineta, that you expressed some frustration as you looked at the chart and tried to decide what that airspace all was. A quick look at that chart shows that the New York TCA is one of the most complex airspace depictions in the United States. This greatly increases the difficulty that VFR pilots have in avoiding and operating within the parameters of the rules that apply to a TCA.

Teterboro Airport underlies four different airspace floors of this TCA. The 1,800-foot level overlies most of Teterboro to protect traffic at 3,000 feet inbound to Newark Airport. To the extreme northwest, the base of the TCA begins at 3,000 feet, and to the southeast, the floor begins at 1,500 and 1,100 feet, respectively. Operation below these floors is conducted during visual conditions, and provides access without imposition of additional workload on ATC. That is an important point to recognize when you talk about a TCA.

But the multiple floors do complicate the navigational exercise for pilots who must devote most of their attention outside of the aircraft to operate see and avoid. You also must remember when you talk about operation between those lower floors that existing regulations demand that you operate so as not to endanger property or life on the ground. And there are specific altitude requirements that apply to those aircraft. So, though those floors exist, they do not imply that you can operate indiscriminately lower than realistic altitudes assigned by the regulations in force. Clearly, the prudence and ease with which operations are conducted and their efficiency could be obtained by simplifying this airspace depiction in the airspace itself.

Mr. Del Balzo's written testimony suggested this morning that Teterboro is responsible for sequencing IFR traffic in its airspace. I believe that this is not true. And if so, the bright scope that is available in the tower to accomplish that task is inadequate. Mr. Papish, I think, did a much better job of describing the airspace and the responsibilities that are appropriate in that airspace.

See and avoid; Airspace is structured so as to provide an appropriate degree of control for the level of activity. The very high

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levels of control imposed by TCA's are accompanied by inherent restrictions in the number of aircraft that ATC can accommodate in that airspace. As previously suggested, procedural separation provided by radar requires greater distances between aircraft and is less airspace efficient than visual separation. The wide range of controls exercised over aircraft operating in U.S. airspace though has one thing in common, and that is the basic method of collision avoidance which is see and avoid. It is a requirement for all flights, VFR or IFR, and it is a tool by which ATC controls can achieve substantial system capacity increases. Without it we would have significantly more delays than you have today in the New York area. There is currently no reasonable technology or procedure that can replace see and avoid. Not MLS, not TCA's.

Mr. MINETA. Excuse me, Mr. McHugh, again because we are anxious to catch a plane, I was wondering if you could summarize your statement so that we can get Mr. Cooke on the record as well here.

Mr. MCHUGH. Yes, sir.

I think if you will refer to my written testimony, I made seven or eight points at the end of the testimony that I would encourage the committee to focus on and perhaps cause to come to fruition. I think I will just quickly touch on a couple of those. It is very important that the existing radars be updated in the New York terminal area. The equipment in place is ASR 7 now, and there are at least two subsequent improvements in those radars.

I think the sectors need to be reviewed and reorganized, realigned. I think there needs to continue to be an aggressive airport improvement program, both State and Federal. I believe the proposals for new instrument approaches that have languished need to be expedited. And I think that the FAA needs to be caused to review the cost benefits of MLS.

Thank you very much.

Mr. MINETA. Thank you, Mr. McHugh.

Due to the lateness of the hour, we will submit questions to you in writing, and if you would respond, we would appreciate it very much.

Mr. MCHUGH. Yes, sir; I will do that.

[Questions submitted to Mr. McHugh and responses follow:]

AIRCRAFT OWNERS & PILOTS ASSOCIATION,
Frederick, MD, March 18, 1986.

Hon. NORMAN Y. MINETA,
Chairman, Aviation Subcommittee, Public Works and Transportation Committee, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for giving me the opportunity to present AOPA's testimony and answers to follow up questions regarding airspace congestion in Northern New Jersey.

I took the liberty of condensing the text of the questons your staff referred to me for reply.

Question 1. Can you explain how general aviation has been virtually driven from the Newark Airport?

Answer. As you are aware, the number of public-use airports has been declining steadily, while operations have been increasing. The demand for access to Newark clearly exceeds airport capacity. Since 1980, air carrier operations at Newark have increased more than 110% while general aviation operations have declined from 18.5% to 12.0% of Newark's total operations.

Although the actual number of total general aviation operations at Newark has remained relatively constant during that same period, the mix of aircraft has gradually shifted toward the more sophisticated machines. As a result, the heavy demand

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People Express's 400 flights per day placed on limited airport capacity represents a very real barricade to access by the vast majority of the fleet. Most important is the fact that People Express has preempted any hope of general aviation expansion at Newark by their usurping most available peak hour operations spaces through scheduling fiat.

I hope you share my concern about the aggravated impact of People's announced increase from 400 to 800 daily operations.

Question 2. Are the cases of multiple operations you cited at precisely the same minute isolated, or are there other examples of piggyback scheduling?

Answer. AOPA requested and received a chronological listing of operations at Newark, JFK and La Guardia from OAG, Inc. Our analysis of the schedules for those airports, effective 15 March 1986, revealed that there will be:

nine instances at JFK where more than 20 operations are scheduled at the same minute each day;

twelve instances at Newark with more than 10 operations scheduled;

seventeen instances at La Guardia with more than 10 operations scheduled.

Although we focused on these three facilities, similar unrealistic scheduling situations exist at most other air carrier airports. It is important to remember that a substantial number of air carrier operations occur each day that are not scheduled and do not appear in the OAG.

Clearly such scheduling practices place heavy demands on ATC services and work to deny access to non-scheduled traffic.

Question 3. To what extent has general aviation been denied access to New York area airports because of "slots?"

Answer. It is difficult to estimate the impact the reservation system has had on general aviation. Certainly, the fact that there are no so called "other" slots (those left for GA and Charter) at JFK at 5:00 p.m. and only 2 "other" slots available during other peak hours restricts access and increases demand for services at Teterboro and other less convenient locations.

But, the greatest restriction for general aviation operations at the Port of New York and New Jersey (PONYA) airports is a peak-hour landing fee surcharge. Every general aviation aircraft operating into Newark, LaGuardia or JFK during peak hours must pay a $100 surcharge in addition to the normal weight-based landing fee. Air carriers and commuters are not required to pay more than the normal landing fee. In effect, PONYA has imposed a second operating restriction on general aviation.

General aviation should be allocated an increased number of "slots" at JFK and LaGuardia if for no reason other than to "relieve" Teterboro.

Question 4. Even after we optimize the flow of traffic, aren't we still going to reach saturation and airport operations limits?

Answer. Yes. However, significant efficiencies are possible in airspace and in airport design. Improvements in radar and terminal procedures will delay saturation, perhaps for years, and even then saturation will only occur for a brief part of the peak periods.

Question 5. To what extent has AOPA been invited to participate in the development of the East Coast Plan? Has this been adequate?

Answer. AOPA endorses the idea that improved airspace assignment and utilization along the East Coast are possible and are worthwhile objectives. It is premature to urge expeditious implementation of the East Coast Plan since no users I've spoken with know what the plan is. AOPA has *not* been invited to participate in development of the plan, and little information about it is being made available. Clearly, this is intolerable. User input seems a reasonable part of successful airspace planning.

Question 6. How would advance notice of intention to hub be consistent with a deregulated air transportation system?

Answer. Airports facilities and the ATC system are not infinitely elastic. Both must be given time to respond to changes in demand, whether for ATC equipment or service, ramp space, gates, baggage handling or even ground transportation. The air carriers have been deregulated, not the airports or airspace system.

There are ways to protect the air carrier's competitive "edge" if advance notice were required. More important, system safety and service would be protected by providing FAA and users of the system opportunity to react to impending changes.

I have attached a paper which outlines our views on the subject.

Question 7. Why isn't a determination of hazard to air navigation adequate to prevent construction? Doesn't liability exposure or inability to obtain insurance act as a deterrent to construction of tall structures?

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Answer. The powers provided in 14 CFR 77 do not include authority to halt construction of any obstacle. This part merely sets standards and provides procedures for determination of whether an obstruction constitutes a hazard. The power to actually authorize construction of an obstacle comes from the FCC or a local zoning ordinance.

The threat of liability is a minor deterrent to the construction of a tall structure, but FCC licensing or positive action by local zoning boards acts to mitigate such liability.

There are two ways that improving Part 77 to give FAA authority to "regulate" tall structures could benefit the air transportation system:

(a) Preservation of airspace. Tall towers, particularly in congested areas, deny access to airspace. Northern New Jersey is a good example. Airspace between 1,000–2,000 feet above ground level is, in places, obstructed by tall towers. Aircraft are forced to fly higher to avoid these, but are then faced with increased airspace congestion and restrictions.

Tall structures near airports force higher instrument approach minima and reduce the percentage of successful arrivals. There are examples of runways and even airports which cannot be used because tall structures were built, and the FAA was powerless to stop construction.

(b) Improved aviation safety, insurance denial and liability are deterrents to some tall structures. Still many structures, even with a hazard determination from the FAA, are put in places. Hard to believe? I've attached a letter from Secretary of Transportation Dole to Secretary Herrington of the Department of Energy (DoE), asking that a power line (determined a hazard) not be constructed. John Baker, President of AOPA, advised against construction as did other aviation groups, but to no avail. The DoE permitted the construction despite clear evidence that an aviation catastrophy might result. Certainly aviation safety would be enhanced by giving FAA FAR Part 77 authority to stop such unconscionable construction.

Again, thank you for the opportunity to testify before your subcommittee and to make these comments. I will be glad to answer any further questions you might have on this or related subjects.

Sincerely,

PETER C. MCHUGH,
Vice President, Aviation Policy.

Enclosures.

THE EFFECT OF AIRLINE HUBBING ON GENERAL AVIATION OPERATIONS

Recent years have seen a marked change in the way U.S. air carriers have conducted business. Spurred by deregulation, significant growth has occurred and with that growth has come the development of the hub and spoke system of scheduling. This expansion for scheduled carriers has brought about airport access problems for general aviation that were neither legislated nor intended. Rational planning for system growth must be restored if all segments of aviation are to continue to benefit from the national system. A proposal to improve the system follows.

The majority of the large airports in the United States have no artificial capacity constraints imposed upon them either through airport airside or terminal air traffic control strictures. Access to five high density traffic airports has been regulated under 14 CFR 93 in recognition of the fact that, at certain times of the day, demand may exceed capacity at these locations. While proposals have been made to extend this rule to other busy airports, voluntary air carrier schedule revisions and attractive alternative airports have precluded such action.

The growth of air traffic at the largest hub airports has proceeded at the fast pace in the deregulated air carrier environment. Excess capacity or planned capacity expansion in large part made new or increased activity at existing hubs possible.

New entrant air carriers and schedule surges by existing air carriers reacting to new entrant market incursions has steadily changed the air carrier/commuter/general aviation mix of traffic at major hubs. While the 25 largest air carrier airports increased total operations by only 7% between 1980 1984, the traffic mix has changed dramatically. Air carrier operations are up 6%, commuter operations are up by 58% and general aviation down by 21%.

Specific examples highlight the problem: Air carrier and commuter traffic increased by 109% and 58%, respectively, at the Charlotte-Douglas Airport between 1980 and 1984, while general aviation activity decreased by 21%. During the same period, air carrier operations at Dayton International increased by 105%, with general aviation decreasing operations by 31%.

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Specific examples highlight the problem: Air carrier and commuter traffic increased by 109% and 53%, respectively, at the Charlotte-Douglas Airport between 1980 and 1984, while general aviation activity decreased by 21%. During the same period, air carrier operations at Dayton International increased by 105%, with general aviation decreasing operations by 31%.

This change in air traffic mix was both relative and absolute. The surge of additional air carrier operations increased delays, particularly at peak hours, and served to discourage general aviation operations at many large airports. If an acceptable reliever airport is available, there is a natural flow of general aviation traffic to the reliever. If a suitable alternative landing site is not available, the non-airline aircraft is faced with a choice of accepting either an airborne delay or ground delay. In either case, general aviation becomes the loser due to air carrier market forces creating excess demand at popular hubs.

AIRLINE SCHEDULING

The inexorable pressure of an increase in airline schedules at a particular location will quite effectively discourage general aviation from using that location. Air carriers are afforded an indirect preference at major airports due to the power of the schedule When capacity for an airport is approached by an increase in airline aviation airline traffic, general aviation is slowly eased out through a natural process of seeking the path of least resistance in terms of reduced air traffic delays.

Air carriers have recently found regional hubs attractive as a means for penetrating new markets and avoiding delays at major hubs. Many of these airports are unable to easily accommodate a surge of 50 or 100 additional air carrier flights per day without sufficient lead time to adjust to the demand. This is particularly true of air traffic control facilities, but also for airport airside facilities as well.

As the major or regional air carrier establishes a new hub, commuter carriers are rapidly drawn to capitalize on the new market opportunity. This creates an activity multiplier effect for scheduled traffic at the hub, compounding the problem.

The trend toward regional hubs is quite popular and will probably grow as major hub airport capacity approaches natural limits.

The process of accommodating additional air carrier demands at airports is currently being driven by marketing factors and profit motives only. This growing demand has widespread effects on the community, the air traffic system and the ability of general aviation to use these airports. For this reason, a more rational approach to accommodating air carrier hubbing demands is needed.

PROPOSAL

The public and users of the nation's airports and airspace system must be made aware of and provided the opportunity to comment on air carrier demands for service at existing or potential commercial airports. This could be accomplished by requiring that carriers announce their intentions to hub in advance. This process must allow for evaluation of factors such as noise, ground congestion, ATC facility capacity and economic impact on existing users of the airports. At least six months lead time should be allocated for this process.

Without asking for imput from the public concerning increased demand, an air carrier presumes that market forces will be the only controlling factor in a planned expansion of service. This concept assumes an infinite elasticity for airport capacity and ignores the legitimate claims of other users. Airport capacity and traffic mix cannot be determined by air carrier scheduling fiat.

This notification and evaluation proposal will allow all parties to comment on the many external factors involved in the additional demands placed on an airport.

MULTIPLE SCHEDULED AIR CARRIER OPERATIONS PER MINUTE

[30-minute sample]

Scheduled minute	JFK		Newark		LGA	
	Arr/Dept	Total	Arr/Dept	Total	Arr/Dept	Total
0700	2/5	7	5/11	16	1/12	13
0800	10/7	17	7/9	16	6/7	13
0830	5/17	22	4/9	13	3/16	*19
0900	4/11	15	1/6	7	4/12	16
0930	0/8	8	3/8	11	4/12	16

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MULTIPLE SCHEDULED AIR CARRIER OPERATIONS PER MINUTE—Continued

[30-minute sample]

Scheduled minute	JFK		Newark		LGA	
	Arr/Dept	Total	Arr/Dept	Total	Arr/Dept	Total
1000	0/7	7	0/6	6	4/8	12
1030	1/4	5	0/1	1	4/9	13
1100	4/6	10	1/3	4	8/8	16
1130	1/1	2	2/6	8	2/6	8
1200	0/7	7	1/4	5	4/7	11
1230	2/4	6	2/3	5	5/4	9
1300	5/2	7	3/8	11	6/11	17
1330	2/3	5	2/4	6	4/7	11
1400	6/3	9	1/4	5	3/8	11
1430	7/6	13	2/4	6	2/7	9
1500	11/15	26	5/2	7	1/10	11
1530	16/2	18	3/4	7	3/4	7
1600	11/13	24	2/15	*17	2/9	11
1630	6/9	15	5/5	10	0/6	6
1700	13/16	29	2/4	6	4/5	9
1730	3/15	18	3/8	11	1/3	4
1800	8/13	21	3/8	11	2/10	12
1830	2/21	23	8/3	11	2/2	4
1900	8/19	*27	1/8	9	8/6	14
1930	2/23	25	9/5	14	4/5	9
2000	4/12	16	0/4	4	6/10	16
2030	4/7	11	6/6	12	1/4	5
2100	2/21	23	3/3	6	4/5	9

Source: Official Airline Guide, Mar. 15, 1986.

Note.—This table depicts the greatest number of operations scheduled [OAG] for any 1 minute during the 30-minute period identified under the heading "scheduled minute."

AIRCRAFT OWNERS AND PILOTS ASSOCIATION,
Frederick, MD, August 14, 1985.

Mrs. ELIZABETH HANFORD DOLE,
Secretary, Department of Transportation, Washington, DC.

MADAM SECRETARY: I am very disturbed to learn that the Bonneville Power Administration intends to virtually ignore an FAA airspace determination and begin stringing transmission lines at a dangerous height across Rock Creek near Clinton, Montana. This is unconscionable and cannot be allowed.

The BPA proposal was the subject of an FAA aeronautical study which resulted in a Determination of Hazard. This was based upon: (1) the fact that the catenary at 605 feet above the ground, protruded into navigable airspace; and (2) an air traffic survey that found 135 aircraft transiting the flyway during the month of March 1984. And it should be pointed out that March is a month of low flying activity in Montana.

Evidently, the BPA holds little regard for the expertise of FAA in its obstruction evaluation process. In fact, BPA appears to ignore safety arguments and is trying to justify its action based on environmental and economic factors. These factors are weak when held against the catastrophic effect to be held against the federal government when an accident occurs at the site.

It is difficult enough to enforce FAA airspace determinations against the private sector. But it is unthinkable to allow one federal agency to ignore the federal agency (FAA) empowered to ensure aviation safety. I ask that you use your authority to halt this derogation of the obstruction evaluation process, and protect the flying public.

Sincerely,

JOHN L. BAKER, *President.*

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THE SECRETARY OF TRANSPORTATION,
Washington, DC, August 16, 1985.

Hon. JOHN S. HERRINGTON,
Secretary of Energy,
Washington, DC.

DEAR JOHN: The purpose of this letter is to draw your attention to and ask your assistance in resolving a problem between the Federal Aviation Administration (FAA) and the Bonneville Power Administration (BPA).

This matter relates to a BPA decision to construct a 500 kilovolt transmission line crossing Rock Creek at 605 feet above ground level, 1.3 nautical miles south of Elliot Field near Clinton, Montana. The FAA issued a Determination of Hazard to Air Navigation because the proposed line would create a substantial adverse effect on aircraft traversing this natural and frequently used visual flight corridor.

Correspondence between the FAA and the BPA has failed to resolve the issue. In the most recent letter from the BPA, Mr. Robert E. Ratcliffe, Deputy Administrator, affirmed the BPA decision and provided the FAA a copy of the decision document.

It appears that the decision on the proposed line's height was motivated by an August 18, 1983, agreement consummated before the FAA was given the opportunity to assess that line's full effects on the navigable airspace. The aviation safety implications have created a cause for great concern. After carefully reviewing the decision document (copy enclosed), we noted the following sequence of events: the referenced agreement was effective August 18, 1983; the BPA decision was rendered on September 7, 1984; and the BPA official notice, including height and location, to the FAA was not made until September 12, 1984. That notice triggered a subsequent aeronautical study which resulted in the issuance of a Determination of Hazard to Air Navigation on December 27, 1984. Therefore, it appears that the FAA determination did not receive consideration.

The objective of the FAA in conducting aeronautical studies is to ensure the safe and efficient utilization of navigable airspace by aircraft. Although the FAA is not empowered to prevent construction, the building of an object determined to be a "hazard" will result in the FAA taking necessary precautions by attempting to warn pilots through charting and flight information publications. Such actions may increase awareness but do not alleviate the potential hazard to aircraft.

I also recognize that there are many factors that must be considered and addressed in designing a transmission line crossing. Nevertheless, on a crossing such as Rock Creek where the aeronautical study concluded that the structure's height would be a hazard, I believe the aviation safety issue should prevail. Although some aviation interests may have indicated that a power line at any height above the ground would present a potential hazard to air traffic, our experience clearly indicates that a well-marked, well-lighted line below 300 feet above ground level would be acceptable in lieu of the higher elevation line which is presently planned.

While we do appreciate the difficulties involved in this decision, we must be certain you understand that in all cases, prior to issuing a hazard determination, we thoroughly analyze the effects the proposal would create before concluding that aviation safety would be seriously threatened. The FAA needs to be given this opportunity in order to fulfill its mission in promoting aviation safety.

Therefore, I ask that BPA take no further action on the line's construction and that it resume discussions with the FAA. I am sure that with such a dialogue, which could include the participation of local environmental groups is appropriate, we can resolve this critical matter to the satisfaction of all concerned.

Sincerely,

ELIZABETH HANFORD DOLE.

Mr. MINETA. Mr. Cooke, I apologize for having to rush you here.

Mr. COOKE. I will try to be very brief.

Mr. MINETA. I appreciate that very much.

Mr. COOKE. The National Business Aircraft Association's primary focus has been aviation safety for 39 years. In Mr. Bell's statement he noted that Teterboro, NJ—northern New Jersey—is being invaded by corporate aircraft, and in his spoken statement he said it is being inundated by corporate aircraft. And I don't care if it was a war or a flood it started in 1947, so it has been going on for some time.

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Corporate aircraft have been a primary feature of northern New Jersey as long as I can remember. I would take you to page 3 in my statement, the preliminary NTSB figures for last year. And I have submitted for the record a summary of those figures compared to previous years. The data source is the NTSB and the FAA. With the exception of 1982, the annual general aviation accident rate has consistently improved. Last year, 1985, was the best in history with the number of fatalities below 1,000 for the first time.

And finally, I did this on behalf of Mr. Roe, who asked, "Does anybody have any good news?" And I wanted to present this good news on aviation safety in response to his question.

If I could then take you to page 4, I wanted to point out to you the instructions given or the decision given by Judge Ward in *United States* v. *Westchester County* regarding curfews. And he struck the curfew down by the way. He said that a curfew imposed on Westchester County:

> Had an adverse impact on the flow of interstate air commerce in that it interfered with and prevented the efficient use of the navigable airspace, resulting in the bunching of flights, delays in flights not only at Westchester County Airport, but at LaGuardia Airport and other airports.

And I will leave the rest to you.

New Jersey law is also mindful of Federal preemption in this area. And I would refer you to the decision rendered by the New Jersey Court of Appeals in *Hanover Township* v. *Morristown,* and I am sorry I don't have the precise citation for you there. But, in essence, the appeals court upheld a decision that said there is no room for local township, which in this case was Hanover, or for the State to legislate in the area relating to control of aircraft.

If I could then take you to page 6 and subsequent, and point out a few of the suggestions that we have for things that can be done by local, State, and national authority to assist in the aviation safety and also in the quality of life problem. And in terms of No. 3, under local authorities, adoption of local zoning ordinances which emphasize compatible commercial instruction. And I would also like to add to that noise proofing and insulation, as regulations which local authorities can impose.

In the Federal role, the Federal Government holds the key in all things relating to aviation, and it must assert its statutory authority and constitutional responsibilities regarding the regulation of interstate commerce in an act to forestall local governments from imposing arbitrary restrictions.

And with your permission, sir, I will leave it at that. I will be delighted to take any questions you have. And I would like your promise that I will be earlier on the schedule the next time I testify.

Mr. MINETA. Thank you very much, Mr. Cooke. We will submit additional questions to you, and ask you to respond for the record.

[Questions submitted to Mr. Cooke and responses follow:]

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NATIONAL
BUSINESS AIRCRAFT
ASSOCIATION, INC.

1200 Eighteenth Street NW
Washington, DC 20036
Telephone: (202) 783-9000
Telex: 904-186

Joe Italiano -
Pls add to
record.
Thanks
Dave

March 10, 1986

Honorable Norman Y. Mineta
Chairman
Subcommittee on Aviation
Committee on Public Works and Transportation
2165 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The following, together with enclosures, responds to your questions posed at public hearings, March 3, 1986, and are submitted for inclusion in the record:

1. Do you favor the installation of the Traffic Alert and Collision Avoidance System (TCAS) in general aviation aircraft in order to help prevent mid-air collisions in congested airspace?

NBAA supports and encourages the continued development and implementation of the TCAS system. A copy of NBAA's Policy/Position paper, Aircraft Separation Assurance is included as enclosure 1.

2. On September 20, 1985, the NTSB issued as safety recommendation to Mr. William W. Fanning, Manager of Technical Services for the NBAA. In that recommendation, the NTSB asked your organization to:

"Disseminate the facts, conditions, and circumstances of the midair collision at the San Luis Obispo County Airport to members of your organization, urging them to adhere to the recommended traffic advisory practice instrument approach at uncontrolled airports in the Airman's Information Manual."

What has the NBAA done to carry out that recommendation?

NBAA published NTSB's letter as a "For Your Information" Bulletin to all members of the association on November 1, 1985. A copy of that bulletin is included as enclosure 2.

3. Some have questioned FAA's reliance on pilots to "see and avoid" each other in clear weather. They say that this works for small planes at remote airports but not in high-traffic areas like northern New Jersey. What is your view on this controversy?

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NATIONAL BUSINESS AIRCRAFT ASSOCIATION, INC.

The FAA relies on "see and avoid" in the form of "visual separation" and "visual approaches" in all terminal controlled airspace, including in Terminal Control Areas where all aircraft are provided separation service.
Please refer once again to enclosure 1, and note the section entitled "Need for Policy". Clearly, NBAA Member Companies believe that there are circumstances under which the air traffic control system is inadequate to provide collision protection. Separation of air traffic by so-called VFR (e.g. Teterboro) towers is one circumstance where the system's ability is "...limited and a matter of grave concern."

4. Some have stated that there is actually a greater danger of midair collisions at or around remote airports because pilots are less alert there than they must be at the big general aviation fields such as Teterboro. Do you agree with this assessment?

No. Insufficient numbers of mid-air collisions occur to draw any such conclusion regarding the alertness of pilots to the dangers described. It must be borne in mind that although mid-air collisions attract a great deal of attention, they are very few in numbers. Accidents resulting from adverse weather occur far frequently than mid-air collisions. We should be thankful, of course, that a mid-air collision, while a serious concern, is a very infrequent event.

5. A November 13, 1985, New York Times article began by stating that:

"The air collision over New Jersey Sunday night came after 10 years of increasing traffic by corporate aircraft that has come close to saturating the airspace over New York and its suburbs."

Do you agree that corporate aircraft are "saturating the airspace" here?

As I noted in my oral statement, the development of corporate aircraft operations in northern New Jersey started in the period immediately following World War Two. The New York Times article blundered seriously in the opinion it offered. General aviation aircraft operations near New York City have been declining, rather than increasing in recent years. On November 11, 1985, NBAA responded to the New York Times in a letter, included as enclosure 3, highlighting the inaccuracies in the article.

6. One of the safety improvements you called for in your testimony is an increase in the number of air traffic controllers. Do you believe that the plans that the Administration has announced to increase the number of air traffic controllers adequately responds to this need?

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NATIONAL BUSINESS AIRCRAFT ASSOCIATION, INC.

Every qualified witness has either alluded or stated that there is a shortage of air traffic controllers in the air traffic control facilities in the New York/Northern New Jersey area. We agree that additional well-trained and properly supervised personnel are needed. We do not know the total number of air traffic controllers required, and will not until the system is fully staffed with fully qualified and properly trained controllers. From testimony heard at this hearing, and NTSB hearings on Feburary 24 and 25, I believe that the controller training program should be examined to determine if too much reliance isn't being placed on on-the-job training, bypassing additional classroom training and simulator training which might be more effective and/or efficient. I also believe that this problem does not lend itself to solution by press release.

Thank you for the opportunity to respond to these questions. Please call on us for any further assistance you and the Subcommittee may desire.

Sincerely,

Robert A. Cooke
Vice President, Operations

RAC/jp

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NATIONAL
BUSINESS AIRCRAFT
ASSOCIATION, INC.
1200 Eighteenth Street NW
Washington, D.C. 20036

policy/
position
paper

ppp

NBAA Policy: Aircraft Separation Assurance

This policy paper was developed by the Association Policies Committee of the National Business Aircraft Association and approved by the NBAA Board of Directors. It can be filed under the "Policies" tab of the Standards/Reference Manual for future reference.

Policy adopted: 1976
Policy amended: June 26, 1985

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Aircraft Separation Assurance

Need for Policy

The ATC System's ability to provide collision protection from unknown air traffic and to provide collision protection outside of controlled airspace is limited and a matter of grave concern.

FAA's response to this requirement has been to provide mid-air collision protection through increased air traffic control. Demand to provide separation assurance to the greatest number of people while at the same time minimizing the restriction to freedom of flight precipitated investigation of various Collision Avoidance Systems (CAS). Concerns relating to the economic impact of dedicated anti-collision equipment requirements have focused the investigation on the Beacon-Based Collision Avoidance System (BCAS). This development of BCAS now has evolved to the Threat-Alert and Collision Avoidance System (TCAS) applicable to all classes of airplanes and helicopters.

In uncontrolled airspace, such as oceanic areas, TCAS can provide collision avoidance service between transponder equipped aircraft without ATC interaction.

Policy

NBAA supports and encourages the continued development and implementation of the TCAS system.

Position

A. TCAS must have full capability of functioning both within and outside of the coverage of the ground radar system.

B. TCAS must have full capability of providing long-term use and be adaptable to changes contemplated in configuration and utilization of the national airspace system.

C. TCAS may be required for IFR flights within certain specific categories of airspace. Such airspace where TCAS is the "price of admission" should be limited to areas where electronic separation assurance is required but cannot be provided by Air Traffic Control.

D. The level of sophistication of TCAS a particular operator selects should be based upon aircraft type, typical mission and areas of operation.

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NATIONAL
BUSINESS AIRCRAFT
ASSOCIATION, INC.
1200 Eighteenth Street NW
Washington, DC 20036
Telephone: (202) 783-9000
Telex: 904-1186

fyi for your information

FYI #85-43
NOVEMBER 1, 1985

ROUTE TO:
AVIATION DEPARTMENT MANAGEMENT
FLIGHT CREWS

TO: ALL NBAA MEMBER COMPANY REPRESENTATIVES

FROM: C. DENNIS WRIGHT, MANAGER, AIRSPACE/AIR TRAFFIC CONTROL SERVICES and WILLIAM FANNING, MANAGER, TECHNICAL SERVICES

SUBJECT: NATIONAL TRANSPORTATION SAFETY BOARD (NTSB) RECOMMENDATIONS

SUMMARY

On August 24, 1984, a Wings West Airlines Beechcraft C99 on departure from San Luis Obispo, California collided in midair with a Rockwell Commander 112TC. All 17 people aboard both aircraft were killed. The accident was investigated by the NTSB. The NTSB asked that NBAA members be informed about the accident and two of the recommendations that resulted from the investigation. The letter from the NTSB is attached.

NBAA ACTION

Please read the attached letter from the NTSB. Copies of the complete NTSB accident report entitled "Midair Collision of Wings West Airlines Beech C-99 (N6399U) and Aesthetec, Inc., Rockwell Commander 112TC (N112SM) near San Luis Obispo, California, August 24, 1984" (NTSB/AAR-85/07) can be obtained from:

NTSB
Public Inquiries Section
800 Independence Avenue, SW
Washington, DC 20594
(202) 392-6735

If NTSB has exhausted its supply, copies can be obtained from:

NTIS
5285 Port Royal Road
Springfield, VA 22161
(703) 487-4650

Attachment

• • •

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ATTACHMENT to FYI #85-43

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

RECEIVED
SEP 24 1985
N.B.A.A.

ISSUED: September 20, 1985

Forwarded to:
Mr. Alan Stephens
Vice President Operations
Regional Airline Association
1101 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036

Mr. William W. Fanning
Manager of Technical Services
National Business Aircraft Association, Inc.
1200 18th Street, N.W., 2nd Floor
Washington, D.C. 20036

SAFETY RECOMMENDATION(S)

A-85-66 and -67

About 1117:38 Pacific daylight time, on August 24, 1984, Wings West Airlines, Flight 628, a Beech C99, (N6399U) and Aesthetec Inc., Rockwell Commander 112TC, N112SM, collided in midair near San Luis Obispo, California. The weather at the time of the collision was clear. Flight 628 had just departed San Luis Obispo County Airport en route to San Francisco International Airport, California, and was climbing on a westbound heading. The Rockwell Commander had departed Paso Robles, California, on a training flight and was descending toward the San Luis Obispo County Airport on an eastbound track. The airplanes collided head-on at an altitude of about 3,400 feet. The wreckage of both airplanes fell into an open field about 8 nmi west northwest of the San Luis Obispo County Airport. All 17 persons, including the 2 pilots and 13 passengers onboard Flight 628 and the 2 pilots onboard the Rockwell, were killed. 1/

The Safety Board's investigation disclosed that the pilots of both airplanes failed to follow the recommended communications and traffic advisory practices for uncontrolled airports contained in the Airman's Information Manual (AIM). The Rockwell Commander, with a certified flight instructor giving an aircraft checkout to another rated pilot, was proceeding inbound to San Luis Obispo County Airport on the localizer course to runway 11. It is possible that the accident might have been avoided if the flightcrew of the Rockwell Commander had informed the Los Angeles Air Route Traffic Control Center (ARTCC) of their intentions, as recommended in the AIM. Under these circumstances, the controller not only would have known of the presence of the Wings West aircraft, he also would have known that the Rockwell Commander's crew intended to fly toward the airport and descend on the localizer course.

1/ For more detailed information, read Aircraft Accident Report -- "Midair Collision of Wings West Airlines Beech C-99 (N6399U) and Aesthetec, Inc., Rockwell Commander 112TC, N112SM, near San Luis Obispo, California, August 24, 1984" (NTSB/AAR-85/07).

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As a consequence, the controller might have issued an aircraft safety advisory during his first communication with Flight 628 and suggested an alternative course of action for the flightcrew to alter its course well to one side of the localizer.

Further, the AIM recommends that aircraft departing uncontrolled airports monitor the UNICOM frequency until 10 miles from the airport. The investigation disclosed that Flight 628 discontinued monitoring the San Luis Obispo UNICOM frequency when it was only 5 miles from the airport. As a result, flight 628 most likely did not hear the communication, "Inbound approaching Dobra," which was transmitted by the Rockwell Commander. Had the flightcrew of Flight 628 been monitoring the UNICOM, they should have become aware of traffic ahead of them proceeding in the opposite direction toward the airport. Although the time available was limited, both flightcrews then might have made their respective positions and intentions known to each other in time for one or both to take appropriate corrective action. Although it is not possible to determine whether pilot communication on the UNICOM frequency would have alerted each flightrew of the other aircraft in sufficient time to avoid the accident, the Safety Board believes that the recommended practice serves a valuable safety purpose and that it should be emphasized by the Regional Airline Association and the National Business Aircraft Association, Inc.

It concerns the Safety Board that the flightcrew of Flight 628 elected to wait until they were airborne before communicating with the Los Angeles ARTCC and requesting their IFR clearance albeit VFR conditions prevailed. This decision severely limited the time available to the controller prior to the collision to radar identify the flight, to issue it an IFR clearance, and then to provide radar traffic advisory service. Had the flightcrew of Flight 628 obtained an IFR clearance on the ground, or as a minimum, had they requested a discrete beacon code for radar traffic advisory service, the controller's radar identification task might have been accomplished sooner, and may have shortened the time the controller needed to enter the flight into the IFR system. The Safety Board is aware that many commuter air carrier flights do not utilize radar traffic advisory service when it is available to them. Many such flights are operating at locations which have specific radar programs (i.e., stage II, stage III, etc.), and yet they choose not to participate in them. Although participation in these formal programs is voluntary, the inherent safety enhancement gained by such participation is significant. The Safety Board recognizes that the ability to provide radar traffic advisory service is predicated on factors such as radar tracking limitations, traffic volume, controller workload, and frequency congestion, but believes that nevertheless, commuter air carriers should request radar traffic advisory service where it is available.

Therefore, the National Transportation Safety Board recommends that the Regional Airline Association and the National Business Aircraft Association, Inc.:

> Disseminate the facts, conditions, and circumstances of the midair collision at the San Luis Obispo County Airport to members of your organization, urging them to adhere to the recommended traffic advisory practices and the procedures for the conduct of a practice instrument approach at uncontrolled airports in the Airman's Information Manual. (Class II, Priority Action) (A-85-66)

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Encourage members of your organization to obtain an instrument flight rules (IFR) clearance, where conditions permit, or assignment of a discrete transponder beacon code with traffic advisory service before departure from an uncontrolled airport. (Class II, Priority Action) (A-85-67)

The National Transportation Safety Board is an independent Federal agency with the statutory responsibility "...to promote transportation safety by conducting independent accident investigations and by formulating safety improvement recommendations" (Public Law 93-633). The Safety Board is vitally interested in any action taken as a result of its safety recommendations. Therefore, it would appreciate a response from you regarding action taken or contemplated with respect to the recommendations in this letter.

BURNETT, Chairman, GOLDMAN, Vice Chairman, BURSLEY, Member, concurred in these recommendations.

By: Jim Burnett
Chairman

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NATIONAL
BUSINESS AIRCRAFT
ASSOCIATION, INC.

1200 Eighteenth Street NW
Washington, DC 20036
Telephone (202) 783-9000
Telex 904 186

November 18, 1985

The Editor
The New York Times
229 West 43rd Street
New York, NY 10036

Dear Sir:

An article published in the November 13 Times contains many accurate comments on the highly professional nature of corporate aircraft operation but it contains two serious errors.

The first centers on the headline, "Corporate Planes Nearing Saturation Point." Such a conclusion is a blunder, for the facts concerning use of major regional airports and the airways are as follows:

Use of La Guardia airport by all general aviation aircraft (of which business aircraft are one component) fell from 18 percent of all operations in 1981 to 11 percent in mid-1985. At Newark, where total operations have increased to 164 percent of the 1981 level owing to airline growth, general aviation activity has fallen from 19 to 10 percent. At Kennedy, general aviation activity is up from 9 to 10 percent of all operations, which equates only to about 18 operations a day.

In the New York Air Route Traffic Control Center region, a very large segment of air space stretching from the Canadian border of New York State to south of Philadelphia, controlled general aviation operations have declined from 38 to 36 percent of the total since 1981.

Total operations at Teterboro airport have been stable for a lengthy period of years; business aircraft operations at the Westchester County airport in White Plains are up by about 9 percent this year over last, but are still less than in the peak years of the 1970's.

From the foregoing it appears obvious that general aviation's use of airports and airspace in the New York area has declined in recent years. To conclude that decline equates to "saturation" is a grave mistake.

The article also alleged that "more than 60,000 corporate jets" are in use in the United States. The fact is that about 3,700 are in use, according to the Federal Aviation Administration (FAA) with whom all U.S. aircraft are registered. There is, then, an overstatement of some 56,000 jet aircraft in the article. There were some 63,000 aircraft of all types used primarily for business purposes in 1984, most of which (38,056) were piston single engine types flown principally by businessmen pilots.

member of ibac international business aviation council ltd

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NATIONAL BUSINESS AIRCRAFT ASSOCIATION, INC.

The jet aircraft used by corporations are almost exclusively piloted by full time, professionally qualified crews. As your article stated, their credentials and ongoing training are equivalent, and in many cases, superior to those of the major certificated airlines.

Sincerely,

John H. Winant
President

JHW/jp

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Mr. MINETA. Mr. Torricelli, do you have any questions you would like to ask very quickly?

Mr. TORRICELLI. Mr. Chairman, I know that you are anxious to get to a plane, and you have been so gracious to spend so much time with us, although your plane will probably be an hour or two late, so you will have plenty of opportunity to catch it. [Laughter.]

Let me just assure both of you, I want you to know what you are witnessing here today is not an effort to restrict general aviation, nor is it a belief that there is not a role for general aviation. There is, and it is important.

More than it has an economic importance, in this case we are talking about something that people enjoy and it is important in their own lives. It is merely my intention to find ways to help it be safe, to find the places and procedures that are appropriate for it, and not to limit it, but to defend it. Perhaps some of the suggestions made here will not be to that end, if they are not, I look forward to reading and other comments and hearing from you. But recognize that no one here is trying to make general aviation a scapegoat for problems that do not involve it, or to try and damage it.

On the contrary, because it is my belief that the real problems at Teterboro are from courier services, that the better and the faster we can deal with that difficulty, the more we are going to be able to preserve and expand opportunities for general aviation. And I only wanted you to know that so that you do not feel a threat that does not exist.

Mr. Chairman, again thank you very much.

Mr. MINETA. Bob, let me thank you for the original call to have these hearings up here because of the safety considerations and the concerns that were being expressed by your constituents. And let me assure you that we will continue to pursue this. I know Mr. Cooke will be before us on March 12, so we will be pursuing some of these issues again in the future.

So, again, thank you very much for your staff's work and your hospitality. And again to Mr. Cooke and Mr. McHugh, thank you very much.

Without any further business, the meeting stands adjourned.

[Whereupon, at 5:40 p.m., the above-entitled matter was adjourned.]

[Mr. McHugh's and Mr. Cooke's prepared statements foliow.]

STATEMENT OF PETER C. MCHUGH, VICE PRESIDENT, AVIATION POLICY, AIRCRAFT OWNERS AND PILOTS ASSOCIATION

Mister Chairman, I welcome the opportunity to appear before this subcommittee to present the views of the 265,000 members of the Aircraft Owners and Pilots Association (AOPA) who own and fly general aviation aircraft for personal and business transportation.

The subjects which are the focus of this hearing are particularly relevant in the shadow of budget decisions which will dictate just what airspace system improvements the Federal Aviation Administration will be permitted to accomplish in the next few years. It is a shame that this hearing takes place so soon after the recent unfortunate accident over Teterboro. That technically complex and emotional incident attracts media attention which makes it difficult for even the most stoic of us to view the airspace and access issues you have raised in a dispassionate way.

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First, let me say emphatically New York airspace as it exists is safe! Suggestions to the contrary simply are not valid—neither users of the system nor the FAA will tolerate lower levels of protection.

I am confident that you will not permit "knee jerk" reaction to jeopardize the utility or efficiency of the airspace and ATC system proven safest in the world.

Certainly, this subcommittee's interest in establishing responsibilities of the various levels of federal, state and local government to ensure that safety is considered in development and use of land near airports will have a beneficial effect. I suspect you also have an interest in achieving similar objections in the airspace overhead as well.

Nothing could be more appropriate!

GROWTH

The number of aircraft operations nationally is growing slowly while the number of available airports is shrinking each year. The New York/Northern New Jersey Metroplex is a microcosm of those national statistics. More important, deregulation has spawned wide variations in the demand for ATC services as air carriers have precipitously "hub and spoked" themselves into and out of various terminal areas.

Newark is a good example of that phenomena and is predominately responsible for dramatic increases in the traffic count in the New York Terminal Control Area (TCA)

Clearly, it is time for the FAA to answer your questions about staffing levels, equipment improvements and airspace system enhancements, but attention should also be paid to the contribution the air carriers make to congestion in northern New Jersey.

COMPOSITION OF THE AVIATION COMMUNITY

Let me quickly put the aviation population into perspective. General aviation is composed of more than 709,500 pilots flying more than 221,900 aircraft approximately 32 million hours a year. The air carriers operate fewer than two percent of the registered aircraft and fly less than 17 percent of those hours on an annual basis.

The air carriers operate primarily from fewer than 30 airports in this country and provide some service to another 640, plus or minus a few. It is general aviation aircraft that provide air access to the more than 15,000 remaining landing sites and yet hardly a day passes that some new proposal to exclude general aviation from "air carrier" airports and airspace isn't offered for consideration under the guise of improved safety or efficiency.

General aviation is a most important part of this nation's transportation system, yet its access to major terminals is severely restricted. As a result, general aviation represents less than nine percent of the operations at the three major airports serving the New York metropolitan area. This is down from 15 percent in 1981.

I'd like to describe some of the constraints which today discourage general aviation access to the New York metropolitan area:

Terminal control area [TCA]

The TCA is said to improve safety by providing separation service to aircraft within its boundaries. Reliance on radar separation does not permit the most efficient use of airspace nor does it absolutely prevent collisions. When there are insufficient people to handle traffic loads or when equipment outages occur, the TCA responds by holding aircraft at feeder fixes and by denying entry. When weather conditions do not permit controllers to employ visual separation, significant delays occur and fewer aircraft are permitted to enter the TCA or to land.

Similar problems exist at FAA's new Airport Radar Service Areas (ARSA) and we receive increasing complaints about reduced safety at ARSA locations.

For many general aviation aircraft, onboard equipment requirements imposed by the TCA virtually preclude entry at any time. These aircraft are forced to circumnavigate the TCA and often are denied ATC services. Since the New York TCA is bordered on the east by ocean, many operators of single engine aircraft are forced to absorb the economic penalty of going the long way around. Not only is this 35-75 mile trek inefficient, it creates the congested areas outside the TCA boundary that the TCA was meant to absorb. The VFR operations below the TCA are not a problem, and current capability will not accommodate traffic increases resulting from TCA expansion.

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Airline scheduling

The unilateral and seemingly irrational decisions made by airline companies in scheduling practices and utilization of hub-and-spoke disregards existing and near term airport and ATC system capacity, and greatly complicates the FAA's task of planning and providing adequate service to all airspace users. Current airport facilities and ATC system terminal environments simply cannot expand or contract to meet the whims of demands that air carrier management conjures, ignoring known limitations. Newark is such an example! Not only has general aviation been virtually driven from that field by People Express's decision to base there, but the airspace system is still adjusting to aircraft operation counts that now rival both John F. Kennedy and La Guardia.

Air carriers should be required to announce their intentions to hub in advance. The public, FAA and users of the system should be permitted time to comment.

Further, as long as the carriers continue to schedule 17 operations at exactly 8:00 AM at La Guardia, 14 at exactly 8:30 AM at Newark and 19 operations at exactly 4:30 PM at Kennedy, there will continue to be delays, congestion in the TCA and airspace exclusions.

General aviation is not the cause of airport congestion. Nor does it make even a significant contribution to the problem. General aviation averages only a few operations, not per minute—but per hour during peak times. In fact, general aviation avoids the peak periods when it is possible, yet our members depend on ready access to the metropolitan area for both livelihood and convenience.

The inexorable pressure of an increase in airline schedules at any location will effectively discourage general aviation from using that location. Air carriers are afforded an indirect preference at major airports due to the power of the schedule. A more rational approach to airline and general aviation access demand is needed.

Slots

AOPA supported the institution of aircraft arrival/departure quotas (slots) at capacity constrained airports under the high density rule, however, these quotas represent a very real sanction against general aviation operations at the New York airports. There are simply too few so-called "other" slots, and there is no assurance that general aviation can retain those in the face of economic competition with airlines if buy/sell becomes reality. We can't afford to lose any further access. Buy/sell will drive the value of each landing or take-off-slot up—carriers will be increasingly attached to such a scarce resource—and general aviation does not have the economic clout to compete.

Slots are an artificial, bandaid fix for the lack of adequate runway facilities in the high density terminals. Expansion of existing runways and construction of new short runways could greatly expedite the arrival process, reduce the time aircraft remain overhead and enhance access. It is not the number of aircraft that operate in the TCA, but the aggregate amount of time the airspace is occupied that creates problems.

New runways should be placed to optimize the flow of non-transport category aircraft. These, combined with properly designed high speed turnoffs, better use of stub runways, helipads, and taxiways would largely solve airport capacity problems, relieving airspace congestion as well.

Landing Fees

Landing fees are a very significant deterrent to general aviation access at New York area airports. General aviation pays a $100 surcharge for each landing at Newark, JFK and La Guardia during certain periods. This surcharge is in addition to landing fees assessed all aircraft. Newark currently requires only half of the peak hour surcharge pending evaluation of general aviation contribution to delay. These peak hour surcharges were established as a deterrent to operation at these airports, yet general aviation is not the reason delays occur.

NEW YORK AIRSPACE

Operationally, the TCA is more or less transparent to instrument flight rules aircraft. Visual Flight Rules aircraft on the other hand must be able to relate the boundaries of the TCA (as shown on the New York Terminal Area Chart and the VFR Sectional Chart published by the National Ocean Service) to landmarks on the ground. The New York TCA is one of the most complex of all airspace depictions. It's complexity greatly increases the difficulty VFR pilots experience in avoiding, or remaining within areas of the TCA.

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The New York TCA is classified a Group I TCA, but of 9 Group I TCA's in the United States, only New York has airspace within the TCA extending to the surface at 3 major airports (JFK, Newark, and La Guardia).

Teterboro, the only general aviation airport with easy access to New York City underlies 4 different airspace floors of the TCA. An 1800 foot level overlies most of Teterboro, however, to the extreme northwest, the base of the TCA begins at 3000 feet and to the southeast the floor begins at 1500 and 1100 feet respectively. Operation below these floors is safely conducted during visual conditions and provides access without imposition of additional unacceptable workload for ATC. The multiple floors, however, complicate the navigational exercise for pilots who should devote most of their attention to "see-and-avoid."

There seems to be no persuasive reason for the lower level floors since normal vertical separation of 1000 feet could be assured with higher floors. Clearly a floor that provided the requisite vertical clearance above the World Trade Center and other typical New York structures would reduce compression of VFR traffic east of Teterboro and along the Hudson.

SEE-AND-AVOID

Airspace is structured so as to provide an appropriate degree of control for the level of activity. The very high levels of control imposed by TCA's are accompanied by inherent restrictions in the number of aircraft that ATC can accommodate. New York ATC facilities currently could not accept the additional workloads imposed by enlarging the TCA. In fact, there have already been reported cases of insufficient transponder codes. As previously suggested, procedural separation provided by ATC radar requires greater distances between aircraft and is less airspace efficient than visual separation. The wide range of controls exercised over aircraft operation in US airspace has one thing in common—the basic method of collision avoidance which is see-and-avoid.

When weather conditions are good, and Visual Flight Rules (VFR) apply (defined by Federal Aviation Regulations in terms of ceiling, visibility, and cloud clearance), see-and-avoid is the primary collision avoidance procedure. If weather conditions are poor, where instrument flight rules apply (IFR), ATC radar supplements see-and-avoid. Even when aircraft are IFR, being controlled from the ground, the pilot shares responsibility for seeing and avoiding other aircraft. See-and-avoid is a requirement for all flights, VFR or IFR and is the tool by which ATC Controllers can achieve substantial system capacity increases.

There is currently no reasonable technology or procedure that can replace see-and-avoid.

FUTURE PLANNING

Airports

Although there are plans to make improvements in several local airports, there does not seem to be reason to believe that such improvements will result in a shift in the mix of aircraft operating in the TCA. Traffic forecasts suggest that there may be minimal increases in operations count, and even the FAA, whose forecasting has traditionally been optimistic, has released numbers that reflect a flatter growth curve than previously expected. Still, airport improvement and expansion must stand at the top of the list of priorities.

Such obstacles are significant to operations below the New York TCA which compresses VFR airplanes 1500, 1100, or 500 foot floors.

Airspace and airway revisions

The FAA has embarked on a long range plan to improve airspace assignment along the east coast of the United States. Known as the East Coast Plan, this review and modification proposes to redesign airways, modify military special use airspace off the coast, and to reconfigure the New York TRACON.

Radars currently used in the TRACON and at Newark and JFK are older ASR 7 sets which the FAA plans to replace. This effort should be accompanied by a redistribution of the sectors of the TCA. After the Controller strike in 1981, many sectors were consolidated to reduce manpower requirements in the facilities. That consolidation resulted in an increase in the size of the area and the number of aircraft for which each controller is responsible. I believe that much of the current frustration among New York controllers regarding excessive periods on "the boards" could be alleviated by increasing the number of sectors.

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In a presentation to the Air Traffic Control Association, last week in Washington, the Associate Administrator for Air Traffic described staffing levels in the New York towers, TRACON and Center as being adequate and slightly above authorized levels. If that implies any surplus capability, perhaps realignment of sectors could be accomplished sooner in anticipation of new radar equipment.

WHAT CAN BE DONE

I would strongly encourage this subcommittee to exert its influence in the following activities:

(*a*). Expeditious upgrade of existing radars and support for FAA budget to accomplish this improvement.

(*b*). Review and reorganization of the TRACON sectors, to reduce controller workload and improve ATC service. Staffing levels within New York facilities must be evaluated in view of retirement eligibility and coming changes in civil service retirement benefits.

(*c*). The FAA should be encouraged to permit greater user participation during development of the East Coast Plan. Certainly FAA efforts to improve the efficiency of DOD use of special use airspace should be encouraged.

(*d*). Aggressive airport improvement programs, both state and federal, must be continued.

(*e*). Proposals for a new ILS approach to runway 11 at Newark and a VOR approach at Teterboro should be expedited. The VOR was first requested in 1981—(surely it doesn't take four years to validate and approve such a requirement) and the ILS in 1983.

(*f*). Review of the status of Teterboro Tower as a VFR facility. It is incongruous that Teterboro has greater IFR density than Newark and yet is a VFR Tower. Certainly control of the Airport Traffic Area belongs at Teterboro and probably the facility should be IFR rated. The present Bright scope at Teterboro is inadequate and should be replaced by radar equipment.

CONCLUSION

Airspace system safety must continue as top priority. Nothing should be permitted to tarnish the enviable safety record established by users and providers of this country's airspace system.

Denial of access to large areas of airspace and elimination of VFR access is not acceptable. Statistics clearly show that safety is in fact not enhanced. Expanding the New York TCA is not a panacea to eliminating or reducing congestion problems.

Care must be taken to ensure that uniformed or emotional reaction does not foreclose on the flexibility and utility of general aviation use of the airspace system. Certainly no one is more interested in guaranteeing high levels of confidence in the safety of the system than pilots. The New York/northern New Jersey airspace is safe. Planned equipment will retain or improve that level of safety and efficiency.

Again, I appreciate the opportunity to provide these comments.

STATEMENT OF THE NATIONAL BUSINESS AIRCRAFT ASSOCIATION, INC.

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to appear before you today. I am Robert A. Cooke, Vice President, Operations, of the National Business Aircraft Association, Inc. (NBAA). NBAA represents the business aviation interests of approximately 3000 companies which collectively, operate more than 5500 aircraft of all types in the daily pursuit of their business objectives.

Aviation safety is of the utmost importance to NBAA and its members and has been the premier focus of this association's efforts since it was first organized in New York City thirty-nine years ago. We are proud of the fact that corporate aviation, that segment of general aviation comprising business aircraft operated by professional crews, enjoys a safety record directly comparable to that of scheduled air carriers who operate large, turbojet aircraft. We commend the Subcommittee and its Chairman for the initiative in convening today's hearing.

The statement of issues of interest to the Subcommittee for today's hearing comprises five basic areas ranging from the nature of air traffic control procedures and IFR routings in the Northern New Jersey area to the impact of any new or expanded airports on air traffic levels and safety. While we would defer to the government witnesses to discuss existing air traffic procedures in the Northern New Jersey area, we are extremely interested in the other issues raised by the Subcommittee. This statement will focus on those other areas.

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AIR TRAFFIC SAFETY IN NORTHERN NEW JERSEY

At the outset, allow us to state our belief that the system of air traffic control in this nation is safe, as is that segment of the system overlying Northern New Jersey and the New York City metropolitan area. Of course, "safety" is a relative term; "How safe is the current system?" and "How can safety be improved?" are, perhaps, the more incisive questions to be asked. Additional questions might be: "How can the existing high levels of safety be maintained, given projected aviation growth?" and "How can all levels of government plan for that growth?"

HOW SAFE IS THE CURRENT SYSTEM

The current system of air traffic control in the U.S. is the safest in the world. No better system has yet been devised to handle the number and mix of air traffic experienced in this country. Unfortunately, aviation accidents attract inordinate attention by the media and the public. Ironically, a reason for this attention may be the rarity of such accidents—the crash of a single-engine airplane injuring two people is much more likely to make an evening news broadcast than any member of one-car accidents injuring two people. Thus, aviation may be the victim of its own success when one asks, "How safe is it?" Further, public perceptions of the relative safety of aviation are easily distorted by sensationalized media coverage or inaccurate and misleading statements repeated by the media. This is not to minimize the tragedies resulting from aviation accidents—*any* accident is one to be avoided and one accident is one too many.

Preliminary NTSB figures for last year show that general aviation accident totals and accident rates were significantly below those for 1984 and set record lows. That this occurred in a year in which total general aviation hours flown were higher than the previous year bespeaks great strides in general aviation safety. Travel by air is much safer than many other forms of transportation. But much more can and should be done to improve general and business aviation safety.

HOW CAN SAFETY BE IMPROVED

Among things which might provide improvements to aviation safety are increased numbers of air traffic controllers, modernized air traffic control and airport facilities, especially communications equipment, and more and better airports serving all facets of aviation. We note that many of these objectives are major features of the FAA's National Airspace System Plan (NASP), which was authorized by Congress in 1982 but which has since been severely underfunded and is now further threatened by the short-sighted efforts of many in government to divert to non-development purposes the funds intended for modernization. This is especially distressing to us as these funds are generated by users of the air transportation system through the imposition of taxes earmarked specifically for modernization purposes. So, one of the first contributions to the long-term preservation of aviation safety would be to accelerate existing plans for replacement of equipment and facilities dating from the 1950s and which will have direct and favorable impact on both safety and efficiency in the national air transportation system.

The proliferation of locally-imposed constraints on airport use adversely impacts safety. The "patchwork" of local restrictions at airports, often for purposes of noise abatement but invoked under another name, for example, has worked to restrict the ability of aircraft operators to efficiently use the dwindling number of airports available. Other restrictions, examples of which include capacity constraints which derive from the failure of airport proprietors to adequately plan for and accommodate aviation growth, lead inexorably to a vicious circle of additional constraints imposed to ameliorate conditions resulting from the previous failures to plan for growth. The danger is that when airport access becomes unavailable, whether to one or a class of operators, those operators do not simply "disappear." Instead, other nearby airports experience an increase in operations. This has a direct impact on the ability of American business to conduct interstate air commerce.

This fact was aptly stated by Federal District Court Judge Robert J. Ward in the case of the *United States* v. *The County of Westchester* (571 F.Sup. 786). In that opinion, decided in the U.S. District Court for the Southern District of New York, Judge Ward stated that a curfew imposed at the Westchester County (NY) Airport "had an adverse impact on the flow of interstate air commerce in that it interfered with and prevented the efficient use of the navigable airspace, resulting in the bunching of flights, delays in flights not only at Westchester County Airport but at La Guardia Airport and other airports in the metropolitan area and disruption in the flow of air traffic in the New York City metropolitan area" (emphasis added).

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The imposition of restrictions, like curfews or so-called "slots" is clearly to the detriment of safety through the interference with efficient use of navigable airspace, bunching of flights and delays deplored by Judge Ward. Additional airport capacity, not only in Northern New Jersey but throughout the nation, will reduce demand for existing airports. Consequently, safety will be enhanced by allowing aircraft operators a choice, thus preventing them from being crowded into a certain airport because it is the only one suitably equipped or simply the only one in existence in the area—the only one left after others have said "no!"

HOW CAN THE EXISTING HIGH LEVELS OF SAFETY BE MAINTAINED

As the growth of civil aviation continues and technologically improved aircraft are placed into service, so must improved air traffic facilities be installed. Some specific programmatic recommendations include:

(1) Additional manpower, in the form of full-performance-level air traffic controllers.

(2) Enhanced communications capabilities, both air-to-ground and between ground facilities.

(3) Expansion of instrument approach procedures at airports currently lacking them and installation of new-technology MLS and ILS aids at runways currently without precision approach capability but with demonstrated needs.

(4) Completion of the Terminal Doppler and NEXRAD weather radar projects, allowing improved identification, tracking and warning of hazardous weather.

(5) Larger, safer, more efficient airports, with multiple runways and approaches, some designed to take full advantage of the capabilities of smaller aircraft.

(6) Implementation of the Area Control Facility concept of the NASP.

(7) Improved capabilities to collect and timely disseminate weather information to flightcrews.

The above recommendations are needed, not at some point in the distant future but now. These programmatic recommendations have direct implications for Northern New Jersey and the New York City metropolitan area and others throughout the nation. We also urge changes in existing laws which would both facilitate the realization of these goals as well as, on their own, enhance the safety, efficiency and capacity of the national system of air transportation as the demand for air transportation continues to grow, well into the next decade.

HOW CAN ALL LEVELS OF GOVERNMENT PLAN FOR THAT GROWTH

All levels of government must begin to work in concert toward the goal of facilitating future growth in air transportation. This work should begin at the local, or municipal level. Among considerations for local governments are:

(1) An understanding that the local airport represents the local "gateway" to this nation's highly developed air transportation system. Without access to it, communities are short-changed and their full potential for economic development will simply not be realized.

(2) Construction of new, more efficiently designed airports and enhancement of facilities at existing airports, to attract traffic from larger, congested airports and provide increased economic benefits from that traffic.

(3) Adoption of zoning ordinances which emphasize commercial construction in the vicinity of planned or existing airports, thus minimizing the need for noise-derived airport restrictions.

(4) Strict laws governing the erection of structures which are not compatible with efficient airport operations, such as tall buildings and towers in close proximity to airports.

These and other actions must be undertaken by local governments if 1) aviation is to fulfill its promise and efficient transportation and, 2) if localities are to remain economically viable as American business increasingly turns to aviation to satisfy its transportation needs.

State and regional governments have a large role to play also. In addition to the above suggestions, these entities should:

(1) Understand that the area's transportation facilities—highways, mass transit and airports—are inextricably linked, and plan for future transportation facilities that consider the interrelationship of all types of transportation.

(2) Expand existing programs and initiate new ones to promote aviation within their boundaries, including agencies dedicated to providing information on the economic benefits of aviation to both the public and the media.

(3) Develop their own programs for airports and air navigation facilities to complement Federal programs.

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Finally comes the Federal government. In the past, the Congress and, especially, this Subcommittee have realized the relationship of aviation to the goal of economic growth and the need to foster that growth. The last few years have resulted in significant threats to the realization of that goal. As this is written, over three billion dollars sit idle in the user-funded Airport and Airways Trust Fund, doing nothing to enhance efficiency, capacity or safety. Unable to divert these funds to non-aviation programs, the Administration, in its FY 1987 budget, proposes to repeal existing law and use these funds for the FAA's administrative expenses. At the same time, the Administration proposes a sharp cut in the amount of funds to be spent in the coming year to provide for development. Pleading the realities of budget deficits and the Gramm-Rudman-Hollings deficit reduction law, the Administration proposes severe cuts to a funding mechanism which is not now nor has ever been in a state of imbalance.

We urge Congress and this Subcommittee to counter such misguided proposals with realistic funding levels that will assure both system development and safety improvements.

In the interest of safety alone, the Federal government must assert its statutory authority and constitutional responsibilities regarding regulation of interstate air commerce and act to forestall local governments from imposing arbitrary restrictions on the ability of aircraft operators to responsibly use existing airports. Federal authorities also must assist local authorities to provide for the construction of new, more efficiently-designed airports. Among our recommendations for safety enhancement actions at the Federal level are:

(1) A fundamental reassessment of the contributions to the national economy made by aviation. Rather than continuing to search for ways to limit aviation growth and impose ever-higher taxes and more severe operating constraints, the Federal government should rededicate itself to fostering the growth of aviation.

(2) Enactment of legislation providing for the development of airports subject to the High Density Traffic Airport rules, culminating in the elimination of the rules within five years. By increasing the capacity of these airports, safety will be enhanced and congestion will be eliminated.

(3) Reassessment of the current Airport Improvement Program, with an emphasis on eliminating projects which do not enhance capacity or safety.

(4) Emphasize compatible land uses around airports. Enact provisions which prohibit further encroachment of non-compatible residential development near Federally-supported airports. Examples of two unfortunate recent developments are the low-cost Federal housing approved in Naples, Florida, and the attempts to re-zone land for residential development near Dulles International Airport in Virginia.

(5) Enactment of provisions removing the Airport and Airway Trust Fund from the vagaries of the Federal budget process and placing it and its programs on a self-sufficient basis. Toward this end, we support both S. 1979 and H.R. 4191.

(6) Inclusion of a mechanism triggering an automatic reduction in aviation user taxes when Trust Fund appropriations fall short of authorizations.

(7) Realization that the goals of airline deregulation are just as ably served by general and business aviation as they are by certificated air carriers. Discrimination against any segment results in an unfair economic and regulatory advantage to the others.

CONCLUSION

The state of aviation safety is sound, but we must continue to strive for improvement. The Federal government must take a leadership role in addressing and solving the myriad problems confronting aviation today. State and local governments have equally important roles to play.

We know this Subcommittee shares both our concerns and aspirations for the future. We stand ready to assist it in executing the bold steps required. Thank you.

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ADDITIONS TO THE RECORD

STATEMENT

OF

AIR LINE PILOTS ASSOCIATION

BEFORE THE

COMMITTEE ON

PUBLIC WORKS AND TRANSPORTATION

SUBCOMMITTEE ON AVIATION

UNITED STATES HOUSE OF REPRESENTATIVES

CLIFFSIDE PARK, NEW JERSEY

MARCH 3, 1986

Mr. Chairman and members of the subcommittee, the Air Line Pilots Association representing 34,000 ALPA members who fly for 49 airlines, appreciates the opportunity to comment on aviation safety issues which may impact airspace congestion in Northern New Jersey and the responsibilities of Federal, State and Local Governments to ensure that safety is considered in regulating the use of land near airports.

Land Use Planning Near Airports

In addition to protecting the navigable airspace within the air traffic control system, the association remains concerned about the protection measures afforded to the airspace immediately surrounding the airport itself. For reasons of safety, protection must be provided to airport neighbors and air travellers alike. This is traditionally accomplished in this country through use of the zoning mechanism.

Under current law, state and local governments share varying mixtures of regulatory authority over zoning in airport vicinities. Some states such as Texas, California and Arizona, provide greater control than most other states. Primarily, however, the local governments retain almost exclusive control of the ability to zone.

Currently, safety areas and obstacle protection areas for departures are not required around runways and taxiways by Federal Air Regulation Part 139, the air carrier airport certification rules. A proposed version of this regulation would require that a safety area be established around each runway, to the extent practicable. This proposed regulation still falls short of the ALPA Airport Standards Guide 3000' suggested safety area. Even if the proposed FAA requirement is passed it would still be necessary for implementation to be carried out by local authorities. In land plots not owned by the airport authority, implementation of easements, land acquisition, etc., can only be accomplished by the zoning authority. Past experience has shown that such authority (usually local) has been ineffective in providing safety areas, obstacle protection and noise protected areas.

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We therefore strongly favor greater state and federal involvement such as proposed in the airport capacity policy currently receiving FAA public comment. From a safety point of view the current situation has resulted in a hodgepodge of local restrictions, non-standard procedures and safety compromises.

In addition, the FAA Part 150 rules on Noise Compatibility Planning provide only noise recommendations (not requirements) and no safety recommendations or requirements. What is left are voluntary noise and safety practices which are infrequently implemented. We therefore believe there is a strong need to directly regulate and provide incentives to improve the situation. Greater state (and federal if necessary) involvement is absolutely essential to provide more effective zoning for protection of airports and citizens.

Air Traffic Control

During the past three years, the Air Line Pilots Association has testified on several occasions before various congressional committees on the adequacy and safety of the air traffic control system during the rebuilding process since the PATCO strike of 1981. The comments we are making here today about the Air Traffic Control (ATC) system are somewhat generalized in nature. They are very applicable to the New York - New Jersey area because we are confident that the air traffic control facilities here have not recovered from the effects of the PATCO strike in terms of controller staffing requirements.

First of all, we would like to acknowledge the dedication and professionalism displayed by the air traffic controllers of the New York - New Jersey air traffic control facilities who have provided a safe transportation system during the past 48 months. What they have done is almost incredible. The challenge they face for the next few years while working long hours in an intense training environment, using outdated equipment, with little direct supervision, and facing the possibility of steadily building traffic, will continue to be demanding.

We also have to recognize that the total number and scope of incidents being reported and investigated has increased dramatically. There were over two thousand operational errors, pilot deviations, and near-misses in 1984.

On August 28, 1985, the FAA acknowledged that the number of near midair collisions (NMAC) for the first seven months of 1985 was 439, a 40 percent increase over the same period in 1984. The FAA subsequently reported a total of 759 NMACs for 1985, an all time high. Thirty of these were reported by pilots in the New York - New Jersey areas. Overall, the trend in NMAC statistics indicate there has been a 65 percent increase since 1983. We find no consolation in any statements which rationalize the ratio of NMACs to the number of flights flown. The fact remains that every near miss or operational error is a potential catastrophy.

That is why ALPA continues to press for the expeditious development and implementation of an effective Traffic Alert and Collision Avoidance System (TCAS). We feel that the development of an effective airborne collision avoidance system is long overdue and needed now more than ever. This system is not dependent upon the ground-based air traffic control system. The TCAS system currently under development is only marginally effective and will not

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provide the aviation public the degree of safety that today's technology permits. This system is known as TCAS II and provides only vertical escape maneuvers. Another system under development is TCAS III, which offers more accurate information than TCAS II, provides both horizontal and vertical escape maneuvers, and reduces the number of unnecessary alarms. Clearly the improved TCAS III system is more appropriate for airline installation, primarily because of the increased accuracy and the addition of a horizontal escape maneuver, which would be more effective in preventing a collision at both high and low altitudes. We feel that the FAA should increase its emphasis on the TCAS III system.

On November 10, 1985, a midair collision occurred over Fairview, New Jersey (Teterboro Airport) between a Dassault Falcon Jet and a Piper 28; and on November 20, 1982, an Aero Commander and a Cessna 182 collided in midair over Livingston, New Jersey. In another incident a KLM 747 was assigned a course reversal when a New York Center controller was unable to effect a radar handoff to an adjacent Washington sector. The jumbo intruded into the flight paths of three oncoming airplanes. Here is a case of too many airplanes in too little airspace.

In addition to these incidents, there are some indicators which show that all is not well with the air traffic control system.

1. It has been widely reported that controllers at several facilitis have been seeking union representation. The motivating factors are reported to be not pay and benefits, but, instead, working conditions and a concern for the safety of the traveling public through improved procedures, modern equipment, and better use of the trainee controllers.

2. Another indicator is the frequency with which users are speaking out publicly about general dissatisfaction with the system. Controllers talk about safety and airline managements talk about delays and the inability to add more flights.

Since the PATCO strike of 1981, there have been numerous studies made of the ATC system to determine the underlying reasons for the strike, to assess the morale of controllers, and to monitor the process of rebuilding the air traffic control system. The most recent of these is the report by the Subcommittee on Investigations and Oversight of the House Public Works and Transportation Committee which was released on September 10, 1985. This report concluded that "serious problems continue to exist in the air traffic control system." The Subcommittee's report highlights the fact that, "from a human factors point of view, the system seems to be in the same posture it was four years ago." The Subcommittee found that "controllers continue to be overworked, overstressed and complain of continued bad management at the middle management level of the FAA." We have reviewed and agree with the recommendations contained in the report, particularly those dealing with controller staffing and traffic handling. We believe it is important that the entire aviation community, including the FAA, accept the conclusions of the Subcommittee's report that "serious problems continue to exist within the Air Traffic Control system." We would further urge that progressive steps be taken to improve the overall situation rather than have such actions dictated as a result of catastrophic accidents.

Prior to the strike, we understand there were over 15,000 fully qualified controllers in the work force. Today that figure is only about 8,000, while

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the total controller work force numbers 14,300. To put it another way, the system has some 5,000 fewer fully qualified controllers than before the strike and the experience level is lower. This is our main concern because, in our opinion, this obviously increases the margin for error and reduces the level of safety. Hiring more people does not necessarily increase the number of qualified controllers. In this regard, the most economical and practical way to increase the number of qualifed controllers in the shortest period of time is to mandate the selective rehiring of some of the "fired" controllers. The problem is not numbers in all cases but experience levels in the controller workforce. To overcome this problem, we recommend that legislation introduced by Congressman Molinari (H.R. 4003) be enacted.

We recommend that the FAA, through the prudent and effective use of flow control, continue to limit the amount of air traffic that is allowed into the system until the required number of qualified and experienced controllers are available to staff all control positions adequately. In this regard, we urge that you and your colleagues support the necessary funding of the FAA program for improving the air traffic control system.

Our greatest concern is the continuing and growing demand to handle more and more aircraft by a relatively inexperienced controller work force. The increasing number of aircraft operating in the air traffic control system and the rapidly increasing number of operational errors and near midair collisions which have occurred in the system lead us to conclude that some procedural and regulatory changes must be made if we are to retain an acceptable margin of safety.

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THE NEED FOR A REPRESENTATIVE INTERNATIONAL NOISE STANDARD

Captain Richard A. Deeds

Air Line Pilots Association
6555 Gillis Drive
San Jose, CA 95120

INTRODUCTION

The need for a representative noise standard throughout the country was recognized by the Congress of the United States back in 1979. The passage of the Aviation Safety and Noise Act that year was formal recognition that "aircraft noise is a major problem affecting the present viability and future growth of this nation's air transportation system. The problem of aircraft noise is not a localized problem restricted to a few critical airports - it is a national problem."[1] While the act recognized the problem, in our viewpoint it accomplished very little else. The act required the Secretary of Transportation to perform the following actions:

"(1) Establish a single (emphasis added) system of measuring noise, for which there is a highly reliable relationship between projected noise exposure and surveyed reactions of people to noise, to be uniformly applied in measuring the noise at airports and the areas surrounding such airports.

"(2) Establish a single system for determining the exposure of individuals to noise which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence.

"(3) Identify land uses which are incompatible with various exposures of individuals to noise."

FAILURE OF THE AVIATION SAFETY AND NOISE ACT

The problem with this 1979 act, however, was that it did not allow the mandatory imposition of the projected standards on the airport operators or states. The reason the act failed to do so was, quite simply, because Congress was unwilling to assume any financial liability, which was estimated at the time to be in the neighborhood of 3.25 billion dollars.

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In addition to the aforementioned specific responsibilities, the 1979 act assigned to the Federal Aviation Administration the responsibility for reviewing and determining the safety of any flight procedures resulting from the implementation of the act.

Subsequent to the act's passage in 1979, the U.S. Department of Transportation developed Federal Air Regulation Part 150 for implementation.[2] While the intent of this program was to develop a single noise metric, the implementary vehicle (Part 150) was strictly advisory in nature, not mandatory. As an advisory standard, neither airport operators nor states were compelled to comply and, in fact, chose to deviate in diverse ways. As an example, in California numerous airports, including San Francisco and Los Angeles International Airports, established Part 150 studies. Instead of using the recommended noise metric of 65 Ldn as the standard, however, a California noise metric (CNEL) was substituted. In Oregon another Part 150 study was accomplished at Portland International Airport, but the Oregon Department of Environmental Quality (DEQ) established 55 Ldn as its standard. These are but two examples of the many different standards that have developed as a result of the voluntary and inadequately stringent nature of Part 150. The original intent of establishing a single metric has thus not occurred. What we have is a "quasi" standard that is unenforceable.

Because of the lack of an effective noise standard, airport operators, in an effort to meet the stringent local standards, have pressured air carriers and the FAA to fly marginally safe noise abatement procedures. While this practice may pacify some local citizens, it has understandably alarmed airline pilots. As pilots we want to do everything reasonably possible to reduce noise levels, but we cannot do so at the expense of our primary responsibility, which is flight safety. Our responsibility is to ensure the safety of the aircraft, passengers and airport neighbors. The areas which dilute safety margins are:

(1) Adoption by airports of single event metrics to enforce an averaged metric, causing takeoff procedures which provide less than minimum certified climb gradients.

(2) Weather and runway conditions which are below those recommended by the National Transportation Safety Board.

(3) Flight paths which do not provide in-cockpit electronic guidance to the pilot.

(4) Reduction of flight performance of aircraft to meet FAA Part 36 certification.

(5) Establishment by airports of local noise standards.

Some background material must be presented for a full understanding of takeoff profiles. Figure #1 depicts the minimum Part 25 certification requirements of a two-engine aircraft.[3] The most restrictive aspect is the climb gradient when the aircraft has lost power on one of its engines. This minimum gradient must be achieved on all takeoffs for existing conditions under regulations.

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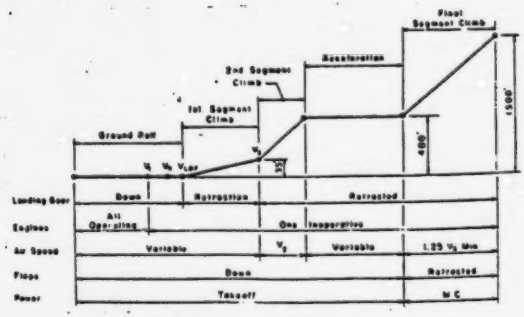

FIGURE 1. TAKEOFF FLIGHT PATH

Noise-reducing takeoff procedures must meet these same standards. The FAA has established Advisory Circular 91-53 as the procedure to be used to reduce noise at airports (see Figure 2).[4] This procedure, when used, can reduce footprints by 40 percent or greater (see Figure 3). The hatched area in the first depiction graphically depicts the differences in the impacted areas and shows the benefit of the 91-53 procedures. However, some airports (as an example, Orange County, California) have adopted single event metric measurements. As a result, takeoff procedures have been approved by the FAA which do not meet the Part 25 regulations. In essence these approvals illustrate the inability of the FAA to withstand local political pressures and perform the agency's mandate of maintaining the "highest degree of safety."

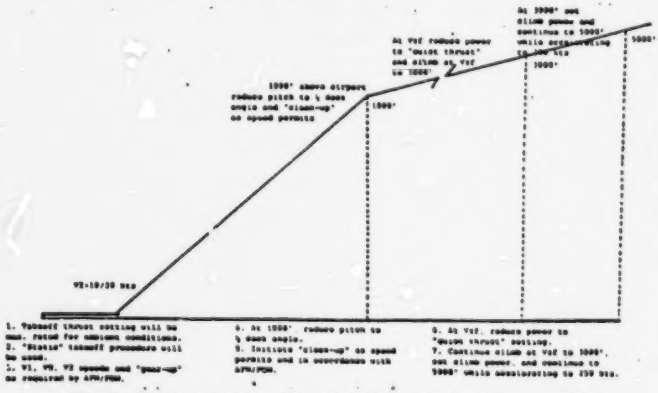
1000' above airport reduce pitch to ½ does angle and "climb-up" as speed permits
1000'
3000'
1. Takeoff thrust setting will be max. rated for ambient conditions.
2. "Standard" takeoff procedure will be used.
3. V1, VR, V2 speeds and "gear-up" as required by AFM/FCOM.
4. At 1000' reduce pitch to ½ does angle.
5. Initiate "climb-up" as speed permits and in accordance with AFM/FCOM.
6. At V2, reduce power to "maximum thrust" setting.
7. Continue climb at V2 to 3000', max climb power, and continue to 3000' while accelerating to 250 kts.

FIGURE 2. AC 91-53 NOISE ABATEMENT DEPARTURE PROFILE

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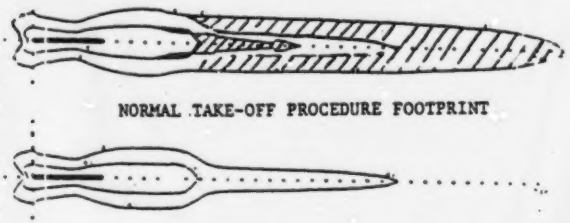

NORMAL TAKE-OFF PROCEDURE FOOTPRINT

91-53 TAKE-OFF PROCEDURE FOOTPRINT

FIGURE 3. NOISE FOOTPRINT COMPARISON

Secondly, the use of Advisory Circular 91-53 must be voluntary, as only the pilot, who bears the responsibility of safety, has the judgment and experience to evaluate the existing conditions and make the decision on power reductions on any given takeoff. The use of a single event metric and the penalties associated with exceeding a given value may in fact inhibit the pilot from using his best judgment in these situations. In other words, the pilot is pressured because of locally imposed standards to fly a procedure which may be less than safe. The establishment of a national standard enforced by the government would eliminate this type of local control.

OTHER PROBLEMS

FAA Order 8400.9 describes the conditions under which runway selection is made because of noise abatement.[5] The order permits aircraft to operate when thunderstorms are within 5 nautical miles of the airport or the final approach corridor, and with crosswinds exceeding those which good judgment would normally dictate to be the limit.

Many airports have attempted to reduce noise by establishing a flight path that uses a combination of visual cues on the ground. One example of this type of procedure is the departure at Washington National Airport. Cockpit visibility is such that these visual cues are <u>not</u> visible! Such examples reflect practices that, if unchecked, could be disastrous. Another method used to achieve a technical compliance without really reducing noise was to recertify noncomplying two-engine aircraft to meet Stage II requirements. This was accomplished by using the trade-off provisions of Part 36 to recertify a Stage I aircraft to Stage II. In the case of the Boeing 737 aircraft, this method trades aircraft performance of a short-field aircraft for composite noise. As a result the pilot is denied the use of the final 2 flap settings.

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Those flap settings provide speed stability to the aircraft, shorter stopping distances, and the ability to "spool" the engines, which is paramount to a stabilized approach and landing. In spite of our concerns, the aircraft are still utilized at airports with short runways, and the FAA will not respond to requests for information regarding performance certification under the recertified configuration.

THE SOLUTION

The situations I have described have occurred as the result of haphazard implementation of the 1979 act and the lack of an enforceable national noise standard. In the international realm, similar problems exist. From our perspective, the only way to resolve this chaotic situation is to establish and adopt a single standard throughout the United States that will serve as a guidepost for our airports and the entire aviation industry.

Without such a standard, there will continue to be a proliferation of chaos, the compromise of flight standards, and the derogation of safety.

Having a single standard would force the courts to use that standard as a method in determining liabilities. It would also force the government into accepting its share of responsibility for the legislation it has fostered.

In the viewpoint of the Air Line Pilots Association, it would also stimulate the FAA into accepting its responsibility in matters of air safety. Ultimately it could force the denial of arbitrary local standards and establish a stable foundation from which all procedures would be judged.

CONCLUSION

In summary, having charted a path, we must also recognize the need for immediacy in action. The present situation is deteriorating rapidly, and delay will only cause a further decay of the already reduced safety standards. If the 65 Ldn standard is, in fact, the standard which has the consensus of this body and is the standard which meets the health requirements of our citizens, then I strongly urge that INCE declare it as the adopted criterion and recommend it as the international standard. A statement from the organization affirming this standard would provide the credibility of the scientific community to the courts.

Both the aviation community and those citizens affected by noise are awaiting action. Such action is a worthy objective for this august body. We urge you to make the adoption of a single standard a priority item of your organization. Considering the alternatives, anything less would be folly.

REFERENCES

[1] Aviation Safety and Noise Act of 1979, Publ. No. 96-193, 94 Stat. So (1980) (Codified in Scattered Sections of 49 U.S.C.A. (West Supp. 1981).

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[2] Federal Register (1985) (Codified in 14 CFR Part 150).

[3] Federal Register (1985) (Codified in 14 CFR Part 25).

[4] Advisory Circular 91-53 (1978) U.S. D.O.T., M-494.3, Washington, DC 20590.

[5] Federal Aviation Administration, Order 8400.9, "National Safety and Operational Criteria for Runway Use Programs," Nov., 1981, US DOT, M494.3, Washington, DC 20590.

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AIR LINE PILOTS ASSOCIATION
535 HERNDON PARKWAY □ P.O. BOX 1169 □ HERNDON, VIRGINIA 22070 □ (703) 689-2270

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ENGINEERING & AIR SAFETY DEPARTMENT

November 21, 1985

Honorable Donald Engen, Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, D.C. 20591

Dear Don:

The Air Line Pilots Association has become increasingly concerned over the growing proliferation of diversified standards for aircraft noise proposed by states and airports. Proposals include all sorts of varied operational procedures, restricted access limits, increased landing fees, fines, and curfews.

Of particular concern is the situation at John Wayne Airport in Orange County, California, where the use of noise monitors and a series of rewards and penalties has resulted in a severely competitive flying environment. Flight crews are forced to try to "beat the microphone" to achieve reduction of a few decibels in an effort to gain additional flights for their particular airline. This situation, or similar situations at other airports, could lead to a degradation in safety.

This chaotic situation can be resolved in an orderly fashion only through strong involvement by the Federal Aviation Administration. The Air Line Pilots Association urges the FAA to assume a leadership role in reducing the competitive flying environment through the establishment of standardized noise practices at this airport and others with similar problems throughout the country.

We believe such an effort will be of great benefit to airline safety, air commerce, and the traveling public.

Sincerely,

Henry A. Duffy, President

HAD:jed

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AIR LINE PILOTS ASSOCIATION
535 HERNDON PARKWAY ☐ P.O. BOX 1169 ☐ HERNDON, VIRGINIA 22070 ☐ (703) 689-2270

PUBLIC HEARING ON AIRCRAFT NOISE

FEDERAL AVIATION ADMINISTRATION, WASHINGTON, DC

DECEMBER 10, 1985

Statement of Captain Richard Deeds, Chairman, Noise Abatement Committee, Air Line Pilots Association.

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My name is Captain Richard Deeds and I am currently national chairman of the Noise Abatement Committee of the Air Line Pilots Association. Our Association represents 37,000 airline pilots from 49 different airlines.

First, let me thank Admiral Enger for the opportunity to address you on this very important subject.

Of course, the primary consideration to be taken into account in all noise abatement programs has to be safety. In no case must we compromise safety in an effort to mitigate noise. Unfortunately history has shown that the first means usually taken to reduce noise is to make changes to operational procedures. And many times procedures are proposed which could have a negative impact on safety. Before any new standards are accepted, we must ensure that those proposed new standards are safe and reasonable. In our opinion, this is not always the case.

Let me cite just two of many instances where we believe that proper consideration was not given to safety issues. The first is the recertification of the 737 and the second is the lack of enforcement by the FAA of reasonable national standards.

Boeing 737 Stage I aircraft have been recertified to Stage II by using "loopholes" in Part 36; i.e., by trading a small amount of takeoff noise (the maximum noise created) into the landing regime, the aircraft can then be certified as being Stage II. However, this "trick" certainly does not reduce the amount of noise created by the aircraft and, in addition, raises some serious safety questions.

Those safety questions, including Category II certification during icing conditions, have been brought to the attention of the FAA. To this date, the FAA has been unable to respond to our questions. This puts the issue of safety right back into the pilot's lap. However, due to the recertification for noise, if the pilot uses his judgment and wishes to operate in accordance with the previously approved design criteria of the aircraft, he must either declare an emergency or take the chance of being violated by the agency. We do not believe this is the way to do business.

Second, both the lack of an acceptable national standard and the inability of the FAA to enforce the present standards in FAR Part 150 cause us serious concern. One airport in particular is using single event noise levels to enforce an LDN standard. The location of the monitors used for enforcement applies pressure to the pilot that can seriously impact his decision making. For instance, we know of several tail strikes at this airport caused by this very situation, and to our knowledge, no one in the FAA or DOT is willing to address the issue!

It is and has been our opinion that noise must be reduced at its source by technology, not by the use of marginally safe flying procedures. I would like to stress that we do not believe any new, more stringent noise standards should be introduced until the safety concerns with the present standards are met and assurances are given that these same concerns will be addressed in any future standards.

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In the meantime, we are doing a number of things to mitigate the noise impact on communities. First, we are involved in an ongoing pilot education program to emphasize the importance of minimizing noise to communities around our airports. Second, we are continuing efforts to establish national standards for noise that provide the lowest average noise while maintaining safety. Last, we are working with local communities in the development of noise-related land use studies and plans. Through active involvement with communities and other concerned members of the industry, we are working to achieve the best possible resolution of airport and community concerns.

Thank you.

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ALPA RECOMMENDED SAFETY AREA & CLEAR ZONE

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Statement of the Air Transport Association
for the House Public Works and Transportation Committee
Subcommittee on Aviation
Hearing, March 3, 1986

The Air Transport Association, on behalf of 21 member airlines serving John F. Kennedy International, LaGuardia, Newark International, and Westchester County Airports, appreciates the opportunity to present to the Committee the following statement concerning aviation safety issues in the New York City and Northern New Jersey area.

The airlines' foremost objective is the provision of safe air transportation services. We share this objective with members of this Subcommittee, with the FAA and with other segments of the aviation community. The recent mid-air collision near Teterboro Airport serves as a reminder that we must never become complacent in our pursuit of improved safety -- that we must reinforce our commitment to needed system safety improvements. We applaud this Subcommittee for its ongoing leadership in identifying and seeking implementation of needed safety improvements.

The airspace within 80 to 100 miles of New York City accommodates the highest number of aircraft operations and air passengers in the world. The record of safety achieved by FAA in managing aviation operations in the New York City and Northern New Jersey area is a tribute to the superb job accomplished by airmen operating within this airspace, as well as by the air traffic controller workforce, controller supervisors and trainers, system managers, and

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maintenance technicians. The ATA member airlines acknowledge and express appreciation for the professional dedication and the "can do" attitude that made this safety record possible. But we must identify and implement additional measures that can help avoid the rare mid-air collisions that occur within the navigable airspace of the United States.

Unlike general aviation flights, airline operations are conducted in accordance with the Instrument Flight Rules (IFR) except at certain smaller airports where it is not practicable to provide full IFR service. Because airline flights operate under IFR they are known to the Air Traffic Control (ATC) system. This is not true for most other operators since they may operate under the Visual Flight Rules (VFR) when weather conditions permit and VFR operation is not precluded by the Federal Aviation Regulations. Thus, it is not unusual for airline flights and other aircraft to be operating in a "mixed" IFR and VFR environment within terminal airspace, when favorable weather conditions permit.

Airlines are obligated under Section 601b of the FAA Act "to perform their services with the highest possible degree of safety in the public interest". Consistent with this obligation, airlines operate routinely under the Instrument Flight Rules. Thus, ATA member airline recommendations on improvements needed in the ATC system to enhance safety are likely to be different from those of general aviation operators -- influenced by the conduct of operations under IFR in both instrument and mixed IFR/VFR environments, rather than the VFR mode which is more common to general aviation operations.

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Controller Staffing and Experience Levels

The air traffic controller workforce totalled 13,870 at the end of January 1986. FAA states that the controller workforce goal is 14,480 by the end of Fiscal Year 1986 and approximately 15,000 at the end of Fiscal Year 1987. The Conference Report accompanying the Fiscal Year 1986 FAA appropriation stipulates that FAA shall employ at least 14,800 controllers by the end of Fiscal Year 1986. Thus, the controller workforce is now approximately 1,000 short of the Congressionally mandated goal for this fiscal year. This shortage is a matter of utmost concern to airlines. We have urged and continue to press FAA to expand the controller workforce at the most rapid practicable rate to meet the Congressionally mandated staffing goal.

Certain ATC facilities are currently experiencing a shortage of qualified radar controllers. These shortages are most notable at several of the enroute Air Route Traffic Control Centers, including the New York Center where the number of Full Performance Level Controllers stands at 54 percent of FAA's staffing standard. Furthermore, a significant number of controllers at some key ATC facilities, including those in the New York City area, are eligible to retire. If unexpected numbers of these experienced personnel elect to retire in the near future, the current shortfall in fully qualified personnel will be aggravated and the on-the-job training cycle for inexperienced controllers to reach Full Performance Level will be lengthened.

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The slow pace of increases in the number and experience level of controllers at certain key ATC facilities has been disappointing. For example, the FAA has had difficulty for many years in attracting and keeping a sufficient number of qualified controllers at New York Center and other ATC facilities in the New York area because of the high cost of living. Special incentives outside current Civil Service limitations may be necessary to resolve this ongoing problem. The numbers and experience level of the air traffic controliers and system managers must always be adequate to assure the safety of operation in the airspace over the New York City area, Northern New Jersey and elsewhere within U. S. airspace.

Aircraft Flow Control Management in the Air Traffic System

The FAA manages the flow of air traffic into the Air Traffic Control system on an hour-by-hour basis. Expected conditions in the system are evaluated and the traffic flow adjusted during the day as conditions dictate. Line controllers and supervisors are involved in this process as well as FAA Air Trafic Flow Managers and airline System Control managers. FAA utilizes restrictive flow control measures to provide insurance against any safety compromise which might otherwise result from unexpected air traffic congestion, adverse weather conditions or equipment outages.

The FAA Flow Control Management System is in an advanced stage of development. It has enhanced safety by providing

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assessments of traffic demand in advance and metering the flow of traffic accordingly. Conservatism is the rule. From the airline point of view, system capacity should be enhanced so that restrictive flow control measures are not required except in the event of contingencies such as severe weather or equipment outages. But FAA's flow control capability has played an important role in enhancing safety of operation.

Instrument Flight Rule Routings and Traffic Control Procedures

Over the years the complexity of air traffic into and out of the three major airports and a host of smaller satellite airports within the New York/New Jersey terminal airspace has resulted in a rigidly structured allocation of airspace among the ATC facilities controlling the traffic. This allocation has been necessary to simplify Air Traffic Control tasks so that safety objectives are met.

Bottlenecks which impede the flow of traffic have developed in the system. Mixes of "fast" and "slow" aircraft further complicate the traffic flow management problem and are troublesome for controllers. To alleviate these shortcomings the FAA has developed the Expanded East Coast Plan which is aimed basically at eliminating the bottlenecks in the system and segregating "slow" from "fast" aircraft in the New York/New Jersey area. Implementation of this complex plan begins in October 1986 and is scheduled for completion by February 1987. The ATA member airlines support

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early implementation of the Expanded East Coast Plan and believe it will contribute to improved safety and efficiency of operation.

Air Traffic Control Facilities and Equipment

ATA member airlines believe that safety in the air traffic system can be raised to an even higher level, particularly in and around busy terminal areas, through implementation of automatic altitude encoding transponders on all aircraft operating in the same airspace as airline aircraft. Thus, the position of all aircraft operating in congested airspace -- whether under IFR or VFR -- would be known in three dimensions to the ATC system. Future National Airspace System (NAS) Plan enhancements to both Center and terminal surveillance and automation capabilities should enable the ATC system to more effectively maintain separation of all aircraft -- provided aircraft position in three dimensions is available. We are encouraged by FAA Notice of Proposed Rulemaking No. 85-16, which proposes a step in this direction. But additional regulatory action is necessary and ATA is coordinating with its members the development of a petition for rulemaking intended to reduce the risk of future mid-air collision by requiring altitude encoding transponders in more aircraft.

ATA member airlines believe that the ATC facility and equipment enhancements identified by FAA in the National Airspace System Plan should move ahead expeditiously. Among these enhancements the ATA believes the FAA program to upgrade the New York

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TRACON Air Traffic Control computer system should be revised to provide a Host computer capability rather than the unique, one-of-a-kind computer capability currently programmed. This change would be more sensible in the long run. It would also make the New York TRACON, which is the busiest in the nation, the prototype of the Area Control Facilities called for in the FAA National Airspace System Plan.

The need for additional traffic control capability in busy terminal areas is increasing more rapidly than foreseen by FAA in developing and updating the NAS Plan. Rapid growth in hub and spoke operation by airlines of all sizes is likely to continue and focuses attention on the need for enhancement of current terminal control capability. Washington and Chicago, as well as the New York area, are other candidate locations for early implementation of enhanced TRACON or Area Control Facility capability.

The ATA member airlines are gravely concerned that the effects of Gramm-Rudman-Hollings upon FAA's Facilities and Equipment and Research, Engineering and Development accounts will produce major slippage in the NAS Plan implementation schedule, starting in Fiscal Year 1987. The airlines applaud the efforts of this Subcommittee to identify and pursue means of resolving the coming budget dilemma and we will work constructively with you in seeking measures to alleviate funding shortfalls that will inevitably slow progress in modernizing the ATC system.

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In conclusion, the airlines believe there are opportunities for improvements in the ATC system that should be pursued by FAA, the Congress and the airspace users. These improvements will enhance safety for the traveling public and for those living near-by busy airports.

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SALVATORE J. D'AMICO, SPECIAL COUNSEL AND STAFF DIRECTOR
RICHARD J. SULLIVAN, CHIEF COUNSEL
CLYDE E. WOODS, I, CHIEF ENGINEER
MICHAEL J. TOOHEY, MINORITY STAFF DIRECTOR

Committee on Public Works and Transportation
U.S. House of Representatives
Room 2165, Rayburn House Office Building
Washington, DC 20515
TELEPHONE: AREA CODE 202, 225-4472

May 8, 1986

Honorable Donald D. Engen
Administrator
Federal Aviation Administration
Washington, D.C. 20591

Dear Don:

Thank you for your letter and your response to the Aircraft Owners and Pilots Association's testimony before the Subcommittee's hearings on airspace congestion in Northern New Jersey.

It will be made a part of the hearing record.

Sincerely,

NORMAN Y. MINETA
Chairman
Subcommittee on Aviation

cc: Joe Italiano

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Joe F

U.S. Department of Transportation
Federal Aviation Administration

Office of the Administrator

800 Independence Ave., S.W.
Washington, D.C. 20591

APR 23 1986

The Honorable Norman Y. Mineta
Chairman, Subcommittee on Aviation
Committee on Public Works and Transportation
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is in response to the Aircraft Owners and Pilots Association's (AOPA) letter dated March 18 concerning AOPA's testimony and answers to follow-up questions regarding airspace congestion in northern New Jersey. I would like to take this opportunity to provide the enclosed Federal Aviation Administration's views on the follow-up questions contained in AOPA's letter.

I hope this information is helpful.

Sincerely,

(signed) Don

Donald D. Engen
Administrator

Enclosure

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FAA Response
Follow-up Questions to AOPA's Testimony and Answers
Concerning Airspace Congestion in Northern New Jersey

1. Q: Can you (AOPA) explain how general aviation has been virtually driven from Newark Airport.

FAA Response: The option to patronize a particular airport rests with the aviation user. The FAA attempts to provide service on a first-come-first-served basis to all users. Pilots are free to choose their points of departure and arrival and, if a pilot does not elect to compete for service at a heavily used airport, that is his or her prerogative.

Demand for commercial airline services in the New York/New Jersey metroplex has grown considerably in recent years. What is happening at Newark Airport is indicative of current trends and airline marketing practices being used throughout the air traffic system; more specifically, the hub and spoke concept. This concept does increase competition for system resources and in some cases, Newark Airport being one, pilots have elected to operate from airports with less traffic.

We are aware of proposed increases in traffic levels at Newark by various airlines and commuters and are actively seeking solutions to insure the best possible service is provided to all users. Our concerns are centered around the effect these increases will have on system resources and are not based on specific users; i.e., airline, air taxi, general aviation, or military.

2. Q: Are the cases of multiple operations you (AOPA) cited at precisely the same minute isolated, or are there other examples of piggyback scheduling?

FAA Response: Multiple operations scheduled at the same minute or within a short period of time have an impact at every major hub airport to varying degrees. This problem has been compounded by the hub and spoke system and increased competition brought about by deregulation.

You will recall that we addressed this in September 1984 and reached voluntary scheduling agreements for peak hours at Atlanta, Denver, Newark, Kennedy, LaGuardia, and O'Hare. Participation by general aviation operators in a voluntary reservation program for the same period was limited. Although those voluntary schedule agreements have expired, we continue to work with individual carriers to minimize the operational impact of scheduling practices.

I do not agree with AOPA's assertion that multiple scheduling has the effect of denying access to non-scheduled traffic. The air traffic control system works on a first-come-first-served basis, and does not give priority to scheduled traffic.

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3. Q: To what extent has general aviation been denied access to New York area airports because of "slots?"

FAA Response: General aviation operations at Kennedy and LaGuardia Airports are subject to limitations under the high density rule, as are air carrier and commuter operations. As with general aviation operations, demand for air carrier and commuter slots at the New York airports exceeds the number of slots available. Operations in all categories are restricted by the existing capacity limitations; therefore, there is no disparate treatment of general aviation under the rule. The fact that many general aviation operations use Teterboro rather than Kennedy or LaGuardia is an example of the reliever airport system at work. A general aviation operator may use Kennedy or LaGuardia; a Boeing 747 arriving from Europe may only use Kennedy. We continue, therefore, to see the development and utilization of satellite and reliever airports for general aviation purposes as a rational policy for the accommodation of all categories of aviation in the New York area.

The surcharge by the Port Authority for general aviation operations in peak hours is unrelated to the FAA's high density rule restrictions.

4. Q: Even after we optimize the flow of traffic aren't we still going to reach saturation and airport operations limits?

FAA Response: The Expanded East Coast Plan will provide significant benefits that will enhance the traffic flow on the east coast. Some of these benefits are an increase in arrival/departure routes to/from the New York Metroplex and the realignment of airspace along the eastern corridor. Conceptual changes within the terminal airspace in the Washington metro area will allow airspace to be realigned into quadrants dedicated to arrivals or departures, thus increasing overall system capacity. The quadrant concept will expand into the en route structure, meshing with the New York Metroplex, which will result in less restrictive altitudes for both arrivals and departures. Even with the key improvements in traffic flow that will result from the Expanded East Coast Plan, airport capacity will remain an issue because of limited airport facilities such as runways.

5. Q: To what extent has the AOPA been invited to participate in the development of the East Coast Plan? Has this been adequate?

FAA Response: The East Coast Plan evolved from a committee that was formed in 1981 and consisted of personnel from the Eastern Region, New York TRACON and Center, Newark Tower, and Westchester Tower. Its objective was to review procedures in the New York TRACON and Center metropolitan area and adjacent cities, incorporating metering, spacing, and expanded flow control procedures. The overall goals of the committee were to take a system approach to: fuel conservation, optimum descent, shorter routes, high altitude holding, unrestricted climbs, and en route metering. The committee was temporarily disbanded between August 3, 1981, to January 1982. In January 1982 it regrouped and by October 1982 it presented the concepts of its plan to the users in the New York metropolitan area.

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The Plan continued to evolve and became the Expanded East Coast Plan. User briefings are ongoing at the regional level and a comprehensive briefing at the Washington headquarters level is planned for May to solicit user input prior to implementation.

6. Q: How would advance notice of intention to hub be consistent with a deregulated air transportation system?

FAA Response: The advance notice of intention to hub flights at a particular airport would be most beneficial to air traffic control. Not only would it provide the FAA, the public, and users of the system time to comment, but more importantly would allow sufficient lead time for all concerned to insure adequate resource availability in terms of handling the proposed increase in traffic volume. The final decision to begin a hub operation is, however, an airline marketing choice which is not subject to Federal regulation. With respect to advance notice to the affected airport operator, such notice is already required by the necessity to execute airport use and lease agreements and arrange for operating facilities.

7. Q: Why isn't a determination of hazard to air navigation adequate to prevent construction? Doesn't liability exposure or inability to obtain insurance act as a deterrent to construction of tall structures?

FAA Response: Congress has charged the FAA with the responsibility of promoting the safety of aircraft and the efficient use of navigable airspace. As this airspace is a limited resource, a sincere effort is made to negotiate equitable solutions to conflicts over the demand for its use for nonaviation purposes. Our primary emphasis, however, is the preservation of navigable airspace for aviation.

The authority given to the FAA regarding proposed construction or alteration was carefully developed by the Congress. In fact, the authority to control construction of ground objects was withheld from the FAA apparently to avoid a conflict with the constitutional issue of "states rights." Congress further limited the FAA's authority by defining the navigable airspace at the behest of the National Association of State Aviation Officials (NASAO) testimony, reflected in the Legislative History of the Federal Aviation (FA) Act of 1958 (see statement of A. B. McMullen, Executive Director, NASAO, June 5, 1958, Senate Hearing on S.3880). Congress did give the FAA authority to require notice of proposed construction or alteration where such notice would promote safety in air commerce (see FA Act of 1958, Section 1101). Federal Aviation Regulations, Part 77, is the vehicle used to implement that section of the Act and provides the specific standards used to identify a potential obstruction.

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Contrary to Mr. McHugh's statement, we are only aware of two occasions in the last several years where a structure was built in spite of the FAA's issuance of a Determination of Hazard to Air Navigation. Mr. McHugh detailed one of these situations in his letter. Although we were unsuccessful in our efforts to prevent construction of the powerline in question, we have taken every feasible action to warn pilots of its existence. The other situation involves a communications tower constructed at the end of the runway at the Boerne-Stage Airport near San Antonio, Texas. In cooperation with the Federal Communications Commission (FCC), the AOPA, and the Department of Justice, we are actively exploring all available avenues that could lead to the removal of this hazardous structure.

In the last several years, we have actively pursued with state and local governmental organizations the enactment of cooperative zoning legislation that would control the erection of hazardous structures. We are very encouraged by the interest shown by many state and community officials. Several pieces of legislation and ordinances have already been enacted with others under development.

At the present time, the inability to obtain insurance coverage is probably the most effective single deterrent to the construction of objects the FAA has determined to be hazardous to air navigation. Few proponents seem willing to risk the consequences of their structure being involved in or causing an aviation disaster.

We believe the combination of FCC actions, state and local zoning efforts, and insurance industry pressures provide effective enforcement of our determinations. With over 16,000 proposals of construction or alteration received in a typical year, the record of industry compliance with FAA decisions is excellent. Although giving the FAA formal authority to control construction could possibly prevent the few exceptions such as the two described above, the legal conflicts that authority could generate might undermine the success this program presently enjoys.

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